

RESPONSE PAPER AND RECOMMENDATIONS TO THE 2024 HLC REPORT ON SIMULTANEOUS ELECTIONS

Prepared by

The NUJS Law Review^{*}

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I. INTRODUCTION

A. APPROACH AND OBJECTIVES

The proposition of simultaneous elections ('SE'), which is being considered for implementation as early as 2019, is both daunting and intriguing for a nation like India, where elections play a significant role in the democratic life of the country. It is a known fact that elections, at the Parliamentary level and the state level, take up a large amount of time and engage the resources of the nation for this prolonged period. The current system of electoral process followed across India suffers from various inadequacies, which require immediate remedy in order to preserve the democratic ethos of India. Simultaneous elections have emerged as a potential remedial step in this respect.

Suggested as a viable alternative to the current model of frequent and staggered elections, simultaneous elections have been endorsed as a possible solution to the existing issues concerning the electoral cycle by the incumbent Union government, as well as the National Institution for Transforming India ('NITI Aayog').¹ The feasibility of simultaneous elections being introduced in India has been deliberated by the Department-Related Parliamentary Standing Committee on Personnel, Public Grievances, Law and Justice and the Election Commission of India. The Report on simultaneous elections in India, 2024 High-Level Committee led by Former President, Ram Nath Kovind ('HLC Report') on the matter of simultaneous elections holds immense potential in suggesting structural changes which can contribute to improving the electoral health of India.²

Based on its recommendations, the government has introduced the 129th Constitutional Amendment Bill to put the simultaneous election process into practice.³ It delineates important concepts, which, while pertaining to the larger framework of conducting such a significant exercise, acquire severe importance that necessitates extensive discussion. To elucidate, the HLC Report deals with the issue of premature dissolution of legislative assemblies using mid-term elections after such dissolution.⁴ For this exercise, the HLC Report utilises the concepts of the full term of the house versus unexpired term, as well as the doctrine of reduction versus expansion, as reasons justifying the manner to deal with such dissolution.⁵ Similarly, since the present form of elections is fragmented, the electoral tenure of Legislative Assemblies requires realignment with that of the Lok Sabha to conduct simultaneous elections. This would require early dissolution of Assemblies, which has been justified in the HLC Report as "part of a reasonable process".⁶ Hence, a holistic understanding of the simultaneous elections process would also have to deal with such intricacies arising out of the discourse that ultimately informs the desirability of such an exercise.

¹ NITI AAYOG, *Analysis of Simultaneous Elections: The "What", "Why" and "How": A Discussion Paper* (2017) ('2017 NITI Aayog Report').

² See generally RAM NATH KOVIND COMMITTEE, *High Level Committee Report on Simultaneous Elections in India* (March 14, 2024) ('HLC Report').

³ See generally The Constitution (One Hundred and Twenty Ninth Amendment) Bill, Bill No. CCLXXV of 2024, 2024.

⁴ *Id.*, Cl. 3; HLC Report, *supra* note 2, 247.

⁵ *Id.*

⁶ HLC Report, *supra* note 2, 246.

The contemporary public discourse on simultaneous elections evinces an ostensibly intractable divide between the two sides of the binary — the proposals staunchly favouring or opposing SE. Hence, our endeavour has been to adopt a pragmatic approach and to proffer realistic solutions, keeping in mind the HLC Report of 2024 — using insights from normative and policy frameworks, empirical data, legal tenability and administrative feasibility studies of simultaneous elections. Thus, we have consciously sought to eschew an *a priori* bias in favour of either side and have sought to objectively assess the spectrum of justifications afforded for and against simultaneous elections, such that:

1. Policy-makers can evaluate and assess which option they would like to pursue;
2. The benefits and demerits of each proposal are promulgated;
3. Legislative and administrative models that can be realistically implemented to operationalise simultaneous elections are proffered to bridge the aforementioned intractable divide;
4. Appropriate qualifiers and riders in our model designs are incorporated, which would holistically tackle the criticisms levied against simultaneous elections.

B. STRUCTURE OF THE REPORT

Part II of this Report evaluates the normative justifications for simultaneous elections at the national and state levels. It examines the merit behind the oft-cited arguments in favour of conducting simultaneous elections, i.e., increased voter turnout, reduction in policy paralysis and reduced economic costs. Part III presents an empirical analysis discussing the impact on voter perception and choice when voting for both state and national elections simultaneously, and whether regional parties tend to be on the losing side of the statistic. It also engages in a cross-jurisdictional empirical analysis of the regionalism-nationalism dichotomy. Part IV discusses the contextual background to the constructive vote of no confidence as a means to prevent, or at least reduce, premature dissolution of State Assemblies that can make state elections fall out of sync with the tenure of the Lok Sabha. It further discusses the HLC's treatment of the idea and possible alternatives that may be explored. Part V addresses similar concerns arising from anti-defection law. Part VI examines the larger constitutional context of the idea of simultaneous elections itself in light of constitutional intent and the basic structure doctrine.

II. EVALUATING THE JUSTIFICATIONS FOR SIMULTANEOUS ELECTIONS

This section explores the key arguments cited in favour of simultaneous elections and the rebuttals presented thereto.

A. CONSTITUTIONAL LEGACY AND HISTORICAL EXPERIENCE

The constitutional architecture and spirit promulgated by the founding fathers envisaged a stable representative democracy in India, with similar electoral system-designs for both national and state legislative assemblies; constitutionally entrenched uniform five-year tenure for these bodies; and the Election Commission acting as the common watchdog, safeguarding one of the most significant reaffirmations of this democratic nature of the Indian polity. Article 83(2) of the Constitution provides for a term of five years for the Lok Sabha, from the date of its first sitting, unless dissolved earlier. Similar provisions under Article 172(1) provide for a five-year

tenure for the State Legislative Assembly from the date of its first sitting, unless sooner dissolved.⁷ This has been argued as evincing the intention of the founding fathers was to harmonise the temporal aspect of elections of both Lok Sabha and State Legislative Assemblies — simultaneous elections was envisaged to be the norm, and separate elections only the exception (under constitutionally specified conditions of dissolution, or failure of a state's constitutional machinery under Article 356).⁸

On the other hand, the historical experience of a successful conduct of simultaneous elections from 1951 to 1967 has also been argued as a mere product of historical accident or coincidence, not constitutional design.⁹ In response, proponents argue that the constitutional architecture argument discussed above strongly countervails this assertion. The lack of explicit delineation of simultaneous elections in the constitutional text does not deter strong inferences that the constitutional architecture and the spirit, interpreted together, do support simultaneous elections. The rise of the coalitional government and multiparty democracy after 1967, whilst indubitably engendering decentralisation and accountability, may not necessarily imply that these would have been impossible to achieve without disrupting simultaneous elections conducted till then. Arguments on this point will be extensively explored in Part VII.

Notwithstanding the above, the correlation drawn between the dismantling of simultaneous elections and the growth of multiparty democracy, and concomitantly, the suggestion that conducting simultaneous elections boosts authoritarianism of the Centre,¹⁰ must be attested by empirical evidence, instead of mere political rhetoric.

B. REDUCING ELECTORAL COSTS FOR THE GOVERNMENT AND POLITICAL PARTIES

There are significant rising electoral costs the government — with a significant jump in 2024 (INR 1.35 lakh crores)¹¹ of 245.5% over expenses incurred in 2019 (INR 55,000 crores)¹² — **as well as for political parties** (nearly INR 15,467 crores between FY 2013 and FY 2024, of which the Bharatiya Janata Party ('BJP') accounted for 55% in 2024 and the Indian National Congress ('INC') for 30% in the same year.¹³ In fact, the 2024 Lok Sabha election was

⁷ The Constitution of India, 1950, Arts. 83(2), 172(1).

⁸ *See Id.*, Art. 356.

⁹ Praveen Chakravarty, *The One-Election Idea is a Farce*, THE HINDU, December 5, 2017, available at <https://www.thehindu.com/opinion/op-ed/the-one-election-idea-is-a-farce/article21261615.ece> (Last visited on May 13, 2025) ('Chakravarty'); Vandana Menon et al., *1967 was the Year Politics Changed. Modi Wants to go Back to the Simpler Times Before That*, THE PRINT, October 24, 2023, available at <https://theprint.in/past-forward/1967-was-the-year-politics-changed-modi-wants-to-go-back-to-the-simpler-times-before-that/1816464/> (Last visited on May 13, 2025).

¹⁰ Aejaaz Ahmad Wani & Rouf Ahmad Dar, *Simultaneous Elections in Plural Societies: Overlapping Social Cleavages and Democratic Stability in India*, Vol. 59(1), ECONOMIC & POLITICAL WEEKLY (2024).

¹¹ R. Rangarajan, *The Burgeoning Expenditure of Elections | Explained*, THE HINDU, November 11, 2024, available at <https://www.thehindu.com/elections/the-burgeoning-expenditure-of-elections-explained/article68806360.ece> (Last visited on January 31, 2025) ('Rangarajan').

¹² Azman Usmani, *In Charts: India's Election Becomes the World's Most Expensive*, NDTV PROFIT, June 4, 2019, available at <https://www.ndtvprofit.com/elections/india-election-expenditure-2019-lok-sabha-elections-was-the-worlds-costliest> (Last visited on January 31, 2025).

¹³ Jayant Pankaj, *Spending Big: BJP Accounts for 55% of the Poll Expenses of all Political Parties Put Together*, THE HINDU BUSINESSLINE, April 10, 2024, available at <https://www.thehindubusinessline.com/news/elections/spending->

described as the “most expensive” electoral event in the world,¹⁴ with over one lakh crore being spent by MPs and political parties, a sharp jump from 55,000–60,000 crore spent in the 2019 polls.¹⁵ This indicates a strong rationale for looking at holistic solutions to implement models that would ideally cut down substantially on such operational, logistic and other attendant electoral costs. It must also be recognised that the economic costs argument cannot be dismissed summarily as constitutionally/legally irrelevant as certain criticisms have been,¹⁶ and must be given due credence in the cost-benefit analysis of conducting simultaneous elections.

C. INCREASED VOTER TURNOUT

Voter turnout is considered to be the hallmark of representative democracy, since it evinces the vibrancy and rates of political citizenship and civic spirit. Shackel & Dandoy show that the **simultaneity effect** indeed has a significant positive impact on voter turnout, owing to greater stakes for the political agents, actors and participants, more focused campaigns centered on tackling a diversity of issues at multi-planar levels, as well as increased press coverage for all tiers of elections, rendering electoral campaigning more accessible both for contestants and voters.¹⁷ From the cost-benefit analytical perspective of the voter, going to the poll booth is a fixed cost which he can spread across the tiers of elections in the event of holding elections on the same date.¹⁸ Scholars, such as Kostelka et al., have broadened the discussion surrounding the simultaneity effect while looking at the concept of ‘voter fatigue’.¹⁹ This phenomenon may be defined as a temporary reduction in willingness to act upon one’s predispositions and external incentives for voting, and has been discussed extensively by a multitude of scholars.²⁰ Notably, while voter fatigue has been well recognised, Kostelka et al. present a discussion surrounding the simultaneity effect in tandem with further examination of voter turnout.

Furthermore, voters’ access to information owing to increased press coverage is also enhanced and enriched, enabling them to arrive at a far more informed political and electoral choice. Where critics have been studiously vocal that voters are not astute to adjudge differences between national and regional issues whilst voting in simultaneous elections, we not only dismantle these arguments both empirically and normatively in Part III of this paper, but also argue that where the present system of staggered elections has not served to increase voter information

big-bjp-accounts-for-55-of-the-poll-expenses-of-all-political-parties-put-together/article68045772.ece (January 31, 2025).

¹⁴ *Id.*

¹⁵ Aishwarya Paliwal, *Most Expensive Polls Ever? Nearly Rs 1.35 Lakh Crore Spent in 2024 Election*, INDIA TODAY, May 31, 2024, available at <https://www.indiatoday.in/elections/lok-sabha/story/lok-sabha-election-2024-expenditure-election-commission-2546455-2024-05-31> (Last visited on May 13, 2025).

¹⁶ Rinchen Wangchuk, *Are Simultaneous Lok Sabha, State Elections Really Such a Good Idea?*, THE BETTER INDIA, Januaru available at <https://www.thebetterindia.com/128740/simultaneous-lok-sabha-state-elections/> (Last visited on May 14, 2025).

¹⁷ Arjan H. Schakel & Régis Dandoy, *Electoral Cycles and Turnout in Multilevel Electoral Systems*, Vol. 34(3), WEST EUROPEAN POLITICS, 605–623 (2014).

¹⁸ *Id.*

¹⁹ Filip Kostelka et al., *Election Frequency and Voter Turnout*, Vol. 56(14), COMPARATIVE POLITICAL STUDIES, 2231–2268 (2023).

²⁰ C. Rallings, M. Thrasher, & G. Borisjuk, *Seasonal Factors, Voter Fatigue and the Costs of Voting*, Vol. 22(1), ELECTORAL STUDIES, 65–79 (2003); R.W. Boyd, *Decline of U.S. Voter Turnout: Structural Explanations*, Vol. 9, AMERICAN POLITICS QUARTERLY, 133–159 (1981); R.W. Jackman & R.A. Miller, *Voter Turnout in the Industrial Democracies During the 1980s*, Vol. 27, COMP. POL. ST., 467–492 (1995).

but simultaneous elections do, then the argument for simultaneous elections should be strengthened given its likely positive effect on representative democracy.

This is **supported by Csaba Nikolenyi's study,**²¹ **which deploys the Riker-Ordeshook Model** to demonstrate that simultaneous elections indeed lead to increased voter turnout. The formula for the model is as follows:

$$pB+D > C$$

where 'p' = probability that the act of the individual's vote will decide the outcome of the election;

'B' = benefit of the voter's favoured candidate being elected;

'D' = stands for any other benefit from voting, such as the sense of fulfilling a particular duty; and

'c' = the cost of voting.²²

Utilising statistics of voter turnouts from both simultaneous elections and staggered elections in India, Nikolenyi adduced evidence of the simultaneity effect highlighted by Shackel & Dandoy. This outcome is reaffirmed by the studies conducted for simultaneous systems of elections in the United States,²³ Rudolph and Leininger's study for German elections,²⁴ and Luky Sandra Amalia's examination of the turnout of women's representation in Indonesia's 2019 elections.²⁵

While there is no denying the imperative of protecting decentralisation for engendering federalism in a democracy such as India, he cited the historical experience argument discussed above to show that **the unique nature of Indian federalism as envisaged in the Indian Constitution, both in terms of its text and practical experience, contemplated simultaneous elections.**²⁶ Citing the voter fatigue hypothesis that suggests reduced voter turnout for staggered elections conducted separately, owing to voter fatigue and less chance of spreading fixed costs across elections, it thus helps to assert further that staggered elections have indeed diminished voter turnout.²⁷

This is further strengthened by a study on simultaneous second-order elections in Europe to increase voter turnout.²⁸ The study presents a model of conducting mayoral elections alongside elections to the European Parliament.²⁹ *First*, the authors divide the term C (participation

²¹ Csaba Nikolenyi, *Concurrent Elections and Voter Turnout: The Effect of Delinking of State Elections on Electoral Participation in India's Parliamentary Polls, 1971–2004*, Vol. 58(1), POLITICAL STUDIES, 214–233 (2010) ('Nikolenyi').

²² *Id.*

²³ Patrick Hummel & Brian Knight, *Sequential or Simultaneous Elections? A Welfare Analysis*, Vol. 56, INTERNATIONAL ECONOMIC REVIEW, 851 (2015).

²⁴ Lukas Rudolph & Arndt Leininger, *Coattails and Spillover-Effects: Quasi-Experimental Evidence from Concurrent Executive and Legislative Elections*, Vol. 70, ELECTORAL STUDIES (2021).

²⁵ Luky Sandra Amalia et al, *Simultaneous Elections and the Rise of Female Representation in Indonesia*, Vol. 40(1), JOURNAL OF CURRENT SOUTHEAST ASIAN AFFAIRS, 50 (2018).

²⁶ Nikolenyi, *supra* note 21, 228.

²⁷ *Id.*

²⁸ Leininger et al, *How to Increase Turnout in Low-Salience Elections: Quasi-Experimental Evidence on the Effect of Concurrent Second-Order Elections on Political Participation*, Vol. 6(3), POLITICAL SCI. RES. METHODS (2016).

²⁹ *Id.*

costs) of the Riker-Ordeshook Calculus into ‘F’ (fixed costs) and ‘v’ (variable costs). *Second*, the authors reject the traditional assumption that the electorate needs to be composed only of specific voter types A and B, not to get a positive effect of concurrency. As this is unlikely in a real-world scenario, turnout should always increase at least marginally if additional elections are held on the same days.³⁰

This is established by the fact that although the 2014 general elections witnessed high voter turnout, when compared to voter turnout during simultaneous elections conducted in 1967, the levels are not significantly different. **With a multiplication in the registered voter base of nearly 4 times from 1967 to 2014, it is clearly concerning that voter turnout has increased only by a marginal 5% during the conduct of staggered elections.**³¹ The trend remains the same for the subsequent General Assembly Elections in 2019 and 2024, in comparison with the 1967 elections:

| Year | Registered Voters (No.) | Voter Turnout (No.) | Voter Turnout (%) |
|--------------------|---------------------------|---------------------------|-------------------|
| 1967 ³² | 250,207,401 | 152,724,611 | 61.04% |
| 2014 ³³ | 834,000,000 | 553,800,000 | 66.4% |
| 2019 ³⁴ | 911,950,734 | 614,684,398 | 67.4% |
| 2024 | 968,000,000 ³⁵ | 642,000,000 ³⁶ | 66.32% |

³⁰ *Id.*

³¹ Sai Manish, *One Nation, One Election: Why Modi Govt Wants to go for Simultaneous Polls*, BUSINESS STANDARD, January 25, 2018, available at http://www.business-standard.com/article/current-affairs/one-nation-one-election-why-modi-govt-wants-to-go-for-simultaneous-polls-118012500184_1.html (Last visited on May 14, 2025).

³² ELECTION COMMISSION OF INDIA, *Statistical Report on General Elections, 1967 to the Fourth Lok Sabha* (Vol. I).

³³ Bharti Jain, *Highest-Ever Voter Turnout Recorded in 2014 Polls, Govt Spending Doubled Since 2009*, TIMES OF INDIA, May 13, 2014, available at <https://timesofindia.indiatimes.com/news/highest-ever-voter-turnout-recorded-in-2014-polls-govt-spending-doubled-since-2009/articleshow/35033135.cms> (Last visited on May 12, 2024).

³⁴ ELECTION COMMISSION OF INDIA, *State Wise Voters Turn Out*, available at <https://old.eci.gov.in/files/file/13581-12-state-wise-voters-turn-out/> (Last visited on May 12, 2024).

³⁵ ELECTION COMMISSION OF INDIA, *Largest Electorate for General Elections*, available at <https://pib.gov.in/PressReleasePage.aspx?PRID=2005189> (Last visited on May 12, 2024).

³⁶ Election Commission of India, Press Note No. ECI/PN/116/2024 (Issued on June 6, 2024); Abhijeet Kumar, *LS polls: EC reports record 642M voters, Vows to Combat Fake Narratives*, BUSINESS STANDARD, June 3, 2024, available at https://www.business-standard.com/elections/lok-sabha-election/ls-polls-ec-reports-record-642m-voters-vows-to-combat-fake-narratives-124060300625_1.html (Last visited on May 12, 2024).

Despite a 264.48% increase in the number of registered voters in 2019, the voter turnout has increased only by a mere 6%. Additionally, while there has been a 6.14% increase in the number of registered voters from 2019 to 2024, the voter turnout has dropped by 1%, lower than the percentage in the 2014 Lok Sabha Elections.

Furthermore, simultaneous elections have led to an increase in voter turnout in 1999, for Karnataka, Maharashtra, and Andhra Pradesh, by nearly 11.5%.³⁷ In 1977, the simultaneous elections in Kerala with national elections augmented voter turnout by nearly 20%.³⁸ Similarly, simultaneous elections in north-eastern states with national elections have been empirically shown to boost voter turnout by 21% in Arunachal Pradesh and 17% in Assam, respectively.³⁹ Manipur and Meghalaya each witnessed a 20% (approximate) rise in voter turnout owing to the same reason.⁴⁰ **Evidently, simultaneous elections incentivise voter turnout across states, even in the relatively geographically remote states.**

D. SHORTENED MODEL CODE OF CONDUCT EMBARGOES ON TRANSFORMATIVE POLICY MAKING

The policy paralysis brought by the Model Code of Conduct ('MCC') has been cited as an important impeding factor to transformative governance and the smooth, continuous flow of State developmental projects. Clause VII(vi) of the MCC restricts ministers and authorities from initiating or promising new projects, grants, or infrastructure developments once elections are announced, effectively limiting policy actions.⁴¹ Thus, the implementation of the MCC during elections disrupts routine administrative activities and development initiatives, i.e., leads to a policy paralysis. This disruption not only hampers the progress of vital welfare schemes but also leads to governance uncertainty.⁴² While some argue that the embargo is only on new developmental projects evolved with an eye to grant sops to voters, and not on extant schemes, in reality, the embargo introduced by the MCC is indeed wide enough to halt critical developmental works.

As the NITI Aayog study adduces, in the previous 2014 general elections, “governance and developmental activities due to imposition of Model Code remained largely suspended for about 7 months: 3 months across the country and about 2 months in Jharkhand and in Jammu and Kashmir and another 2 months in Maharashtra and Haryana”.⁴³ In the most recent Lok Sabha elections 2024, the MCC remained in effect for eighty-two days.⁴⁴ According to data from the Election Commission of India, the MCC was in force for a total of 676 days between 2019

³⁷ *Id.*

³⁸ *Id.*

³⁹ *Id.*

⁴⁰ *Id.*

⁴¹ THE ELECTION COMMISSION OF INDIA, *Frequently Asked Questions on the Model Code of Conduct*, available at <https://www.eci.gov.in/faq/5/16> (Last visited on May 13, 2025).

⁴² Press Release, MINISTRY OF LAW AND JUSTICE, *One Nation One Election*, December 17, 2024, available at <https://pib.gov.in/PressReleaseIframePage.aspx?PRID=2085082#:~:text=Prevents%20Policy%20Paralysis%3A%20The%20implementation,also%20leads%20to%20governance%20uncertainty> (Last visited on May 13, 2025).

⁴³ 2017 NITI Aayog Report, *supra* note 1.

⁴⁴ The announcement for the General Elections to the Lok Sabha took place on March 16, 2024, which is also when the MCC took effect. See Election Commission of India, Press Note No. ECI/PN/23/2024 (Issued on March 16, 2024). See also Sapna Chadah, *One Nation, One Election*, Indian Institute of Public Administration, available at https://iipa.org.in/upload/Theme_Paper_2024.pdf (Last visited on May 14, 2025).

and 2024, covering both Lok Sabha and Vidhan Sabha elections. Further, on average, the MCC is at least in effect for a total of approximately four months every year, as a result, halting any development to be undertaken for one-third of the whole year.⁴⁵ The inefficacy wrought in terms of standstill of governmental machinery, as well as reluctance of political parties to promulgate genuine public welfare schemes for fear of violating the MCC, are strong arguments in favour of simultaneous elections, which would substantially reduce the temporal facet of this embargo.

The **substantial deployment of security forces for protracted periods**, especially the Central Armed Police Forces ('CAPF') — 967 companies of CAPF for polling access across merely nine constituencies in West Bengal in the seventh phase; and continued protraction of service owing to the frequency of staggered elections every six months⁴⁶ — also demonstrates the need for cutting down on deployment periods through conduct of simultaneous elections. Nevertheless, on the other side of the coin, we find arguments that logistically, it may be difficult to deploy the significant numbers required to monitor simultaneous elections at a go.⁴⁷ Hence, the balance between the temporal aspect of staggered elections and the quantitative aspect of simultaneous elections with respect to the deployment of security forces needs to be weighed and measured holistically, before arriving at a hasty proposal in favour of either side.

E. LOGISTICAL CONSIDERATIONS

Transparency and ease of governance stemming from fewer disruptions of public life, shifting focus from narrow parochialism to pressing governance issues, increased focus on development rather than election campaigning (due to greater availability of both time and money to do so), have also been cited in favour of simultaneous elections.⁴⁸ Praveen Chakravarty rebuts that these appear to be arguments against the conduct of elections themselves, not necessarily staggered elections.⁴⁹ However, it is also true that since simultaneous elections have the significant potential to reduce these multiplied costs, the proposal should not be dismissed summarily. More importantly, the continuous staggered focus on the elections by both the government and political parties potentially takes away more time and resources than a simultaneous election model. Hurdles in implementation should not be a bar to exploring alternative options that have beneficial impacts on governance and electoral structures, especially if they are normatively justified.

F. EASE OF GOVERNANCE AND FOCUS ON DEVELOPMENT RATHER THAN ELECTION CAMPAIGNING

Transparency and ease of governance stemming from fewer disruptions of public

⁴⁵ Aditya Prasanna Bhattacharya, 'One Nation, One Poll' (1/3): Laying out the Practical Case for Simultaneous Elections, LAW SCHOOL POLICY REVIEW, October 20, 2018, available at <https://lawschoolpolicyreview.com/2018/10/20/one-nation-one-poll-1-3-laying-out-the-practical-case-for-simultaneous-elections/> (Last visited on May 13, 2025).

⁴⁶ Joydeep Chatterjee & Gautam Dutta, *A Systematic Literature to Understand the Difference Between Critical Factors Affecting the National Election and State Elections in India*, Vol. 6, FRONT. POL. SCI. (2024); Shiv Sahay Singh, *Highest Deployment of Central Forces for Seventh Phase of Polling in West Bengal*, THE HINDU, May 31, 2024, available at <https://www.thehindu.com/elections/lok-sabha/highest-deployment-of-central-forces-for-seventh-phase-of-polling-in-west-bengal/article68236935.ece> (Last visited on May 14, 2025).

⁴⁷ Rangarajan, *supra* note 11.

⁴⁸ HLC Report, *supra* note 2, 116.

⁴⁹ Chakravarty, *supra* note 9.

life, shifting focus from narrow parochialism to pressing governance issues, increased focus on development rather than election campaigning (due to greater availability of both time and money to do so), have also been cited in favour of simultaneous elections.⁵⁰ Praveen Chakravarty, scholar and politician, disagrees with this argument. His primary contention is that such factors appear to be arguments against the conduct of elections themselves, not necessarily staggered elections.⁵¹ Chakravarty argues that the ‘governance paralysis’ faced during the conduct of State elections is merely a farce, being a party-specific and not national issue, and additionally, the disruption to public life during the conduct of elections is minor and temporary.⁵² To that end, the solution is to reform the model code of conduct rather than the electoral process itself.⁵³ He goes on to argue that factors such as ‘high costs’ have been misrepresented, and are rather exaggerated compared to their actual macro impact.⁵⁴ For instance, he found that in 2014, the actual expenditure incurred on elections did not reach even 0.1% of India’s total expenditure that year, amounting to around INR 27 per voter, which could not be considered a ‘massive’ expense.⁵⁵

While Chakravarty’s concerns are valid, they do not take into account the larger impact of staggered elections. While the cost may seem low when considering the over 900 million eligible voters in India,⁵⁶ the conduct of simultaneous elections would naturally reduce the tens of thousands of crores spent every election cycle (and increasing every year), leading to long-term savings, reductions of redundancies, and streamlining of the entire process. Moreover, while disruptions on account of elections may be temporary, the same does not take away from the fact that these constitute administrative, public, and financial obstacles that require reforms, and cannot simply be ignored. National priorities do take a backseat when State elections are being conducted, and the focus of any ruling Party is naturally drawn to a successful result at the State level. A mere amendment to the model conduct rules does not seem to provide an adequate solution. Hurdles in implementation should not be a bar to exploring alternative options that have beneficial impacts on governance and electoral structures, especially if they are normatively justified.

III. DO SIMULTANEOUS ELECTIONS LEAD TO VOTER BIAS FOR NATIONAL PARTIES? EVALUATING EVIDENCE AND DISPELLING MISCONCEPTIONS

This Part evaluates the evidence in three parts: testing the reliability of empirical studies attesting to the negative impact of simultaneous elections on voter behaviour in India; contradictions in voter bias effect in foreign jurisdictions; and seeking to normatively justify the dissonances in the empirical evidence, whilst deconstructing the voter bias effect attributed to simultaneous elections. Our study clearly shows that the vote congruence effect cannot be directly, causally and only attributed to simultaneous elections — factors such as voter information, political context, and the electoral issues that gain predominance, are far more powerful in determining the actuation of such effect.

⁵⁰ *Id.*, ¶3.27.

⁵¹ Chakravarty, *supra* note 9.

⁵² *Id.*

⁵³ *Id.*

⁵⁴ *Id.*

⁵⁵ *Id.*

⁵⁶ BBC, *India Elections 2024: When Were They, Who Could Vote and Why Do they Matter?*, June 4, 2024, available at <https://www.bbc.com/news/world-asia-india-68678594> (Last visited on May 15, 2024).

A. THE INDIAN SCENARIO

1. Objectives

The present analysis aims to ascertain the effect of the conduct of simultaneous elections on voting behaviour. Various Think Tanks and Authors in Opinion Pieces have opined that the conduction of simultaneous elections will blur the difference between National and Regional issues, which will lead to the trivialisation of regional issues and, conversely, the nationalisation of elections⁵⁷ Such conclusion rests on the assumption that Voters, while voting in simultaneous elections for two tiers, will not be able to distinguish national issues from regional issues (or vice versa) and more often than not, the voters will end up voting for the same party at both the tiers (provided that such an option is available to them).⁵⁸ This analysis, hence, tries to answer the following three research questions:

- i. Do voters vote for the same party during simultaneous elections?
- ii. Do simultaneous elections prejudice regional issues and regional parties in favour of national issues and national parties?
- iii. Will the voters vote differently if the elections are not held simultaneously?

2. Methodology

The analysis uses the widely cited Chhokar-Kumar study ('CK Study') as the base material.⁵⁹ Like the CK Study, simultaneous elections held during and post-1989 are analysed using the most reliable data available, i.e., the election statistics released by the Election Commission of India. In the analysis, we have compared the share of votes of the top two parties in terms of vote share in Lok Sabha elections with their respective shares in the State Assembly elections during simultaneous elections. For the purpose of this analysis, the vote share in total valid votes polled has been considered instead of the vote share in the votes polled at the seats contested for the sake of a more reasonable comparison.⁶⁰ A threshold of 10% difference in vote percentage polled has been taken as the reasonable criterion for classifying variations as 'significant change in voting behaviour'.⁶¹

⁵⁷ See Louise Tillin, *Is Holding Simultaneous Elections for Lok Sabha and State Assemblies Necessarily a Good Idea?*, SCROLL, July 18, 2016, available at <https://scroll.in/article/810995/is-holding-simultaneous-elections-for-lok-sabha-and-state-assemblies-necessarily-a-good-idea> (Last visited on May 14, 2025); Yamini Aiyar, *Why Simultaneous Elections are Bad for India's Democracy*, HINDUSTAN TIMES, March 16, 2018, available at <https://www.hindustantimes.com/columns/why-simultaneous-elections-are-bad-for-india-s-democracy/story-2iRW7VioNL59X2162NvCQL.html> (Last visited on May 14, 2025).

⁵⁸ See Chakravarty, *supra* note 9.

⁵⁹ Jagdeep Chhokar & Sanjay Kumar, *The Case Against Simultaneous Polls*, THE HINDU, November 1, 2016, available at <http://www.thehindu.com/opinion/lead/The-case-against-simultaneous-polls/article15000825.ece> (Last visited on May 14, 2025).

⁶⁰ There are instances when a party has contested almost all the seats of the State in Lok Sabha elections while contesting half or less than half in State Assembly elections.

⁶¹ However, variations of more than 6% have also been represented in the analysis.

3. Empirical Study Tables

| KEY TO COLOUR CODES, SYMBOLS & OTHER ABBREVIATIONS | |
|--|---|
| LS | Lok Sabha |
| SA | State Assembly |
| SE | Simultaneous Election |
| NSE | Non-Simultaneous Elections/ Staggered Elections |
| Δ | Absolute value of variation in vote percentage |
| | Variation of more than 6% but less than 10% |
| | Variation of more than 10% |
| | Simultaneous Elections not held |

| KEY TO ABBREVIATED PARTY NAMES | |
|--------------------------------|---|
| AC | Arunachal Congress |
| ADK(JL) | All India Anna Dravida Munnetra Kazhagam (Jayalalita Group) |
| AGP | Asom Gana Parishad |
| AITC | All India Trinamool Congress |
| BJD | Biju Janata Dal |
| BJP | Bharatiya Janata Party |
| CPM | Communist Party of India (Marxist) |
| DMK | Dravida Munnetra Kazhagam |
| INC | Indian National Congress |
| INLD | Indian National Lok Dal |
| JD | Janata Dal |
| JP | Janata Party |
| NCP | Nationalist Congress Party |
| SDF | Sikkim Democratic Front |
| SKM | Sikkim Krantikari Morcha |
| SHS | Shivsena |
| SSP | Sikkim Sangram Parishad |
| TDP | Telugu Desam Party |
| TMC (M) | Tamil Maanila Congress |
| TRS | Telangana Rashtra Samithi |
| UDP | United Democratic Party |
| YSRCP | Yuvajana Sramika Rythu Congress Party |

| TABLE 1 | | | | | | | | | | | | |
|---------|---------------------------|---------------|---------------|----------|---------------------------|----|----|----------|---------------------------|---------------|---------------|----------|
| State | 1989 | | | | 1999 | | | | 2004 | | | |
| | Two Largest Parties In LS | LS Vote Share | SA Vote Share | Δ | Two Largest Parties In LS | LS | SA | Δ | Two Largest Parties In LS | LS Vote Share | SA Vote Share | Δ |

| | | | | | | | | | | | | |
|---------------------------------|-----|-------|-------|------|-----|-------|-------|------|-----|-------|-------|------|
| Andhra Pradesh | INC | 51% | 47.1% | 3.9% | INC | 42.7% | 35.6% | 7.1% | INC | 41.5% | 38.5% | 2% |
| | TDP | 42.4% | 36.5% | 5.9% | TDP | 39.8% | 39.9% | 0.1% | TDP | 33.1% | 37.5% | 4.4% |
| Karnataka | INC | 48.9% | 43.8% | 5.1% | INC | 45.4% | 40.8% | 4.6% | INC | 36.8% | 35.3% | 1.5% |
| | JD | 28.3% | 27.8% | 0.5% | BJP | 27.2% | 20.7% | 6.5% | BJP | 34.8% | 28.3% | 6.5% |
| Odisha | | | | | | | | | INC | 40.4% | 34.8% | 5.8% |
| | | | | | | | | | BJD | 30.0% | 27.4% | 2.6% |
| Arunachal Pradesh ⁶² | | | | | INC | 56.9% | 51.8% | 5.1% | | | | |
| | | | | | AC | 16.6% | 16.7% | 0.1% | | | | |
| Sikkim ⁶³ | | | | | SDF | 56.6% | 52.3% | 4.3% | SDF | 69.8% | 71.1% | 1.3% |
| | | | | | SSP | 42.2% | 41.9% | 0.3% | INC | 27.4% | 26.1% | 1.3% |
| Telangana | | | | | | | | | | | | |
| | | | | | | | | | | | | |
| Maharashtra | | | | | INC | 29.7% | 27.2% | 2.5% | | | | |
| | | | | | NCP | 21.6% | 22.6% | 1.0% | | | | |

| TABLE 1.1 | | | | | | | | |
|-------------------|---------------------------|---------------|---------------|-------|---------------------------|---------------|---------------|-------|
| State | 2009 | | | | 2014 | | | |
| | Two Largest Parties In LS | LS Vote share | SA Vote share | Δ | Two Largest Parties In LS | LS Vote Share | SA Vote Share | Δ |
| Andhra Pradesh | INC | 38.9% | 36.5% | 2.4% | TDP | 29.1% | 32.5% | 3.4% |
| | TDP | 24.9% | 28.1% | 3.2% | YSRCP | 28.9% | 27.9% | 1% |
| Karnataka | | | | | | | | |
| Odisha | INC | 32.7% | 29.1% | 3.6% | INC | 26.4% | 25.7% | 0.7% |
| | BJD | 37.2% | 38.9% | 2.7% | BJD | 44.8% | 43.4% | 1.4% |
| Arunachal Pradesh | INC | 51.1% | 50.4% | 0.7% | BJP | 46.6% | 31.0% | 15.6% |
| | BJP | 37.1% | 05.2% | 31.9% | INC | 41.7% | 49.5% | 7.8% |
| Sikkim | SDF | 63.3% | 65.9% | 2.6% | SDF | 53.7% | 55.0% | 2.3% |
| | INC | 29.5% | 27.6% | 1.9% | SKM | 40.0% | 40.8% | 0.8% |
| Telangana | | | | | TRS | 39.0% | 34% | 5.0% |
| | | | | | INC | 20.5% | 25% | 4.5% |
| Maharashtra | | | | | | | | |

| TABLE 1.2 | | |
|-----------|------|------|
| State | 2019 | 2024 |

⁶² Arunachal Pradesh simultaneous election of 1999 was not included in the Chhokar-Kumar Study.

⁶³ Sikkim simultaneous Election of 1999 and 2004 was not included in the Chhokar-Kumar Study.

| | Two Largest Parties In LS | LS Vote share | SA Vote share | Δ | Two Largest Parties In LS | LS Vote Share | SA Vote Share | Δ |
|-------------------|---------------------------|---------------|---------------|-------|---------------------------|---------------|---------------|-------|
| Andhra Pradesh | <i>YSRCP</i> | 49.89% | 49.95% | 0.06% | <i>TDP</i> | 37.8% | 45.6% | 7.8% |
| | <i>TDP</i> | 40.19% | 39.17% | 1.02% | <i>YSRCP</i> | 39.6% | 39.4% | 0.2% |
| Karnataka | | | | | | | | |
| | | | | | | | | |
| Odisha | <i>BJD</i> | 42.8% | 44.71% | 1.91% | <i>BJP</i> | 45.3% | 40% | 5.3% |
| | <i>BJP</i> | 38.4% | 32.49% | 5.91% | <i>BJD</i> | 37.5% | 40.2% | 2.7% |
| Arunachal Pradesh | <i>BJP</i> | 58.90% | 50.86% | 8.04% | <i>BJP</i> | 48.9% | 54.6% | 5.7% |
| | <i>INC</i> | 20.93% | 16.85% | 4.08% | <i>INC</i> | 30.4% | 5.6% | 24.8% |
| Sikkim | <i>SKM</i> | 47.03% | 47.76% | 0.73% | <i>SDF</i> | 20.5% | 27.4% | 6.9% |
| | <i>SDF</i> | 47.63% | 44.20% | 3.43% | <i>SKM</i> | 42.5% | 58.4% | 15.9% |
| Telangana | | | | | | | | |
| | | | | | | | | |
| Maharashtra | | | | | | | | |
| | | | | | | | | |

| TABLE 2 | | | | | | | | | | | | |
|----------------------|---------------------------|---------------|---------------|------|---------------------------|---------------|---------------|-------|---------------------------|---------------|---------------|-------|
| | 1989 | | | | 1991 | | | | 1996 | | | |
| State | Two Largest Parties In LS | LS Vote Share | SA Vote Share | Δ | Two Largest Parties in LS | LS Vote Share | SA Vote Share | Δ | Two Largest Parties in LS | LS Vote Share | SA Vote Share | Δ |
| Tamil Nadu | <i>INC</i> | 39.8% | 19.8% | 20% | <i>INC</i> | 42.6% | 15.2% | 27.4% | <i>TMC</i> | 27.0% | 9.3% | 17.7% |
| | <i>DMK</i> | 26.6% | 33.2% | 6.6% | <i>DMK</i> | 22.7% | 22.5% | 0.2% | <i>DMK</i> | 25.6% | 42.1% | 16.5% |
| Uttar Pradesh | <i>INC</i> | 31.7% | 27.9% | 3.8% | <i>BJP</i> | 32.8% | 31.4% | 1.4% | | | | |
| | <i>JD</i> | 35.9% | 29.7% | 6.2% | <i>JD</i> | 21.3% | 18.8% | 2.5% | | | | |
| Haryana | | | | | <i>INC</i> | 37.2% | 33.7% | 3.5% | <i>INC</i> | 22.6% | 20.8% | 1.8% |
| | | | | | <i>JP</i> | 25.4% | 22.0% | 3.4% | <i>BJP</i> | 19.7% | 8.9% | 10.8% |
| Kerala ⁶⁴ | | | | | <i>INC</i> | 38.7% | 32.1% | 6.6% | <i>INC</i> | 38.0% | 30.4% | 7.6% |
| | | | | | <i>CPM</i> | 20.7% | 21.7% | 1.0% | <i>CPM</i> | 21.1% | 21.6% | 0.5% |
| West Bengal | | | | | <i>INC</i> | 34.8% | 35.1% | 0.3% | <i>INC</i> | 40.1% | 39.5% | 0.6% |
| | | | | | <i>CPM</i> | 35.2% | 36.9% | 1.7% | <i>CPM</i> | 36.7% | 37.9% | 1.2% |
| Assam | | | | | <i>INC</i> | 28.5% | 29.3% | 0.8% | <i>INC</i> | 31.6% | 30.5% | 1.1% |
| | | | | | <i>AGP</i> | 17.6% | 17.9% | 0.3% | <i>AGP</i> | 27.1% | 29.7% | 2.6% |

| TABLE 3 |
|---------|
| 1998 |

⁶⁴ The Chhokar-Kumar study had only identified thirty-one instances of simultaneous elections out of which Kerala, 1989 is not being included in this study as no simultaneous elections took place in Kerala that year.

| States ⁶⁵ | Top Two Parties in LS | LS Vote Share | SA Vote Share | Δ |
|----------------------|-----------------------|---------------|---------------|-------|
| Meghalaya | <i>INC</i> | 47.6% | 35.0% | 12.6% |
| | <i>UDP</i> | 25.5% | 27.0% | 1.5% |
| Nagaland | <i>INC</i> | 86.7% | 50.7% | 30.0% |
| | ⁶⁶ | | | |
| Tripura | <i>CPM</i> | 48.8% | 45.5% | 3.3% |
| | <i>INC</i> | 42.1% | 34.0% | 8.1% |
| Gujarat | <i>BJP</i> | 48.3% | 44.8% | 3.5% |
| | <i>INC</i> | 36.5% | 34.8% | 2.7% |
| Himachal | <i>BJP</i> | 51.4% | 39.0% | 12.4% |
| | <i>INC</i> | 41.9% | 43.5% | 1.6% |

4. Inference and Observations

- Total number of simultaneous elections since 1989: forty-six⁶⁷
- Number of simultaneous elections in which the vote percentage polled by a party in Lok Sabha Election varied with a difference of 6% to 10% when compared to the votes polled in the corresponding State Assembly elections: twelve (26.09% of the total number of simultaneous elections since 1989)⁶⁸
- Number of simultaneous elections in which the vote percentage polled by a party in Lok Sabha Election varied with a difference of more than 10% when compared to the votes polled in the corresponding State Assembly elections: twelve (26.09% of the total number of simultaneous elections since 1989)⁶⁹
- Number of simultaneous elections in which the vote percentage polled by a party in Lok Sabha Election varied more than 6% when compared to the votes polled in the corresponding State Assembly elections: twenty-four (52.17% of the total number of simultaneous elections since 1989)
- Stark variation of more than 10% is usually seen in States with low population,⁷⁰ or Strong

⁶⁵ The simultaneous elections of 1998 were not included in the Chhokar-Kumar Study.

⁶⁶ There was no recognised party that contested election that year. The Contest was against Independent Candidates.

⁶⁷ The Chhokar-Kumar study had only identified thirty-one instances of simultaneous elections out of which Kerala, 1989 is not being included in this study as no simultaneous elections took place in Kerala that year.

⁶⁸ The Chhokar-Kumar study does not reveal the criteria it adopted to categorise elections as the case of significant variation in the votes polled. The 7.8% variation in votes polled by INC in 2014 simultaneous election of Arunachal Pradesh is being counted in the more than 10% category.

⁶⁹ The Chhokar-Kumar Study had identified seven such instances. This analysis does not consider Andhra Pradesh 2014 SE to be a constituent of the category of elections where significant variations were observed and yet identifies three extra instances of significant variation.

⁷⁰ Himachal Pradesh, Arunachal Pradesh, Meghalaya & Nagaland.

5. Do Voters Vote for the Same Party During the Simultaneous Elections?

The overwhelming pattern that has emerged in this analysis is that whenever elections are held simultaneously, the voters mostly vote for the same party. If we consider a variation of above 10% to be an indicator of ‘significant’ change in voting behaviour, then voter behaviour has remained the same in 73.91% of cases. However, if we bring down the aforementioned threshold to six percent, only 47.83% of the voters voted similarly.

Further, the variation cannot be solely attributed to the change in voting behaviour, as variation in some cases was also in part because of pre-poll alliances whereby a party abstained from contesting all the seats, resulting in significantly lower vote share in such elections. For example, in the 1991 simultaneous election, while INC contested all the LS constituencies in Tamil Nadu, it contested only 65 out of the total 234 seats and, as a result, its percentage of votes polled fell from 42.6% in LS elections to 15.2% in SA Elections. Similarly, in the 1996 Simultaneous Election, there was a pre-poll alliance between DMK and TMC (M) under which the TMC contested 51% of the Lok Sabha seats and only 17% of the State Assembly Seats. This resulted in a fall in TMC’s vote share from 27% in the Lok Sabha elections to 9.3% in the State Assembly elections. Even during the 2024 Arunachal Pradesh State Assembly elections, the INC only contested nineteen out of sixty seats, leading to a variation of 24.8% in votes polled in its favour when compared to its run during the general elections. Thus, only in eight out of the total twelve instances of significant variation and of thirty-eight recorded instances of simultaneous elections, the variation has been purely because of voting behaviour (17.39% of the total number of Simultaneous elections).

Moreover, the variation in votes during simultaneous elections has decreased over the years. With the exception of Arunachal Pradesh and Sikkim, the variation in percentage of votes polled in LS and SA elections has remained below 5% in the simultaneous elections of 2009 and 2014. Thus, during a simultaneous election, the general voting behaviour is that the voter will vote for the same parties at both tiers.

6. Are Simultaneous Elections Detrimental to Regional Parties and Issues?

SEs should be considered detrimental to regional parties and their issues if:

1. The tendency to vote for the same party works only in favour of national parties;
2. The national parties tend to gain voting percentage at the cost of regional parties in a simultaneous election.

The present analysis clearly shows that none of the above effects exist.

Firstly, the tendency to vote in favour of the same party works equally in favour of regional parties, too. For example, the average variation between LS and SA votes in all the simultaneous elections after 1989, for TDP — the regional party of Andhra Pradesh — is lower

⁷¹ For example, Tamil Nadu (DMK, AIADMK etc.), Arunachal Pradesh (Arunachal Congress).

than that of INC, the dominant National Party.⁷² Similar results are also achieved in the case of Odisha, where BJD – a regional party — can be seen to be involved in the power tussle of INC, the dominant national party.⁷³

Secondly, in cases where there have been significant variations between LS and SA election vote percentages, this analysis observes that it is the regional parties who reap the benefit at the cost of the vote percentage of the national parties, rather than it being the other way around. Out of nine instances of significant variation in LS and SA votes, the aforementioned proposition can be observed in the following 8 cases:

- The 10.8% decrease in BJP's LS vote share in the 1998 SA election translated into the high vote percentage of the regional party, Haryana Vikas Parishad's higher vote share in the SA election.⁷⁴
- In the 1998 simultaneous elections, certain regional parties from Meghalaya, like United Democratic Party and People's Democratic Movement, saw an increase in their SA election vote shares from the LS elections, while the vote share of INC fell from 47.6% in LS to 35.0% in SA.
- In the 1998 simultaneous election, in Himachal Pradesh, the decrease in the BJP's vote share of 51.4% in LS to 39.0% in SA was accompanied by an increase in the vote share of a regional party, Himachal Vikas Congress, from 3.6% to 9.6%.
- In the 1989 simultaneous elections in Tamil Nadu, the vote share of the INC fell from 39.9% in LS to 19.8% in SA, while ADMK, which had 17.22% vote share in LS, saw an increase to 30.34%.⁷⁵
- In 1998 SE, in Nagaland, the vote shares of the INC fell from 86.7% in LS to 50.7% in SA, while the vote share of the independent candidates went up from 13.30% in LS to 49.27% in SA.
- The decrease in the BJP's 37.1% LS vote share to 5.2% in SA saw a corresponding increase in the regional All India Trinamool Congress, whose vote share rose to 15%.

Similarly, under the effect of the pre-poll agreements, the change in INC's share in 1991 and TMC (M)'s share in 1996 was allotted to ADMK and DMK, respectively, both of which are regional parties who saw an increase in their respective SA vote share from LS shares. The SE in Arunachal Pradesh⁷⁶ in 2014 is the only instance out of the nine recorded instances of significant variations, wherein the increase or decrease in the share of one national party was achieved at the cost/to the benefit of the other national party. However, few analyses identify a result contrary to the one presented here. One such analysis published in the Quint predicts that it is national parties

⁷² Average variation between LS and SA votes in Andhra Pradesh from 1989 to 2009, for TDP is 3.4%, whereas for INC it is 3.85%.

⁷³ Average variation between LS and SA votes in Odisha from 2004 to 2014, for BJD is 2.23%, whereas for INC it is 3.37%.

⁷⁴ Average variation between LS and SA votes in Andhra Pradesh from 1989 to 2009, for TDP is 3.4%, whereas for INC it is 3.85%.

⁷⁵ ADK's increased share is combined of both the Jayalalitha and the Jankai Ramchandran factions.

⁷⁶ BJP's decrease from 46.6% in LS to 31.0% in SA saw a corresponding Increase in INC, another national party, which vote share rose from in 41.6% in LS to 49.50% in SA.

that stand to gain the most if the elections are held simultaneously.⁷⁷ However, the methodology of the analysis was not sound as it evaluated the performance of the coalition rather than the individual performances of the national and regional parties. For example, in the analysis of the simultaneous election of 2014 held in Andhra Pradesh, the analysis attributes the victory to the NDA coalition led by the BJP without actually analysing the individual performances. Had the study analysed the individual performances, it would have identified that it was regional parties like TDP and YSRCP which dominated both the Assembly as well as the Lok Sabha Elections.⁷⁸

This analysis clearly shows that **even if voters decide to vote differently in a simultaneous election, in most cases (here, eight out of nine), the regional parties benefit from such deviation from the general rule of similar voting.** Thus, on the basis of the aforementioned empirical evidence, it can be concluded that irrespective of the voting pattern (voting for the same party/different party), the **regional parties will not necessarily suffer from a decrease in their vote share during simultaneous elections.**

The above analysis also suggests that significant variation is extremely rare and may be a result of pre-poll alliances or unique political contexts. Thus, regional parties are not universally disadvantaged, and factors like strong regional identities, prominent local leaders, and specific issues can mitigate the nationalisation of voter preference.

7. Will the Voters Vote Differently if the Elections are not Held Simultaneously?

When commentators adjudge the tendency of voting for the same party for the Centre and the State to be problematic, the inherent assumption is that if the elections are held separately, the voters will/may vote for a different party. However, an analysis of voting trends since 1998/99 presents evidence to the contrary. In this analysis, several proximate separate elections are analysed to ascertain whether the voters will vote differently if the elections are held separately. The separate election so analysed involves elections in which Lok Sabha and State Assembly elections were held in the same year (Maharashtra 2004–24, Haryana 2009–2024 & Jharkhand 2009–2024), elections in which the Assembly election preceded the Lok Sabha Election by one year (Rajasthan 1998–2024 & Karnataka 2008–2024) and elections in which Lok Sabha Elections preceded Assembly election by one year (Haryana 1999–2005, Jharkhand 2004/2005 & Bihar 1999–2020).

In the analysis, **the pattern of the voting behaviour that comes to the fore is that voters vote differently if the elections are held separately.**⁷⁹ Out of thirty-two elections analysed, parties maintained a similar vote percentage in only five cases (15.6% of the total instances). The vote share varied significantly (variation above 10%) in eleven cases (34.4% of the total instances). Variation in votes is particularly high in states like Rajasthan, Karnataka, Haryana and Jharkhand. The trend suggests that national parties like the BJP and the INC perform better in LS elections across most states, with significant variation in values when compared to the corresponding SA election. Voters are influenced by national versus local issues, often voting

⁷⁷ Rakesh Dubbodu, *Simultaneous Elections: Who Stands to Benefit the Most?*, THE QUINT, October 6, 2017, available at <https://www.thequint.com/news/politics/simultaneous-elections-who-stands-to-benefit-the-most> (Last visited on May 14, 2025).

⁷⁸ See *supra* Table 1.1.

⁷⁹ As long as there is no significant change in the circumstances during the intervening period. Examples of significant changes would be declaration of war, financial crisis, political scandal etc.

differently in LS and SA elections. Thus, in separate elections, variation is comparatively greater than in simultaneous elections, supporting the conclusion that voters vote differently in non-simultaneous elections.

| Table 4 | | | | |
|----------------------|---------------------|---------------|---------------|----------|
| Maharashtra | | | | |
| Year | Top 2 Parties in LS | LS Vote Share | SA Vote Share | Δ |
| LA /SA 2004 (NSE) | INC + NCP | 42.1% | 39.8% | 2.3% |
| | BJP +SHS | 42.7% | 33.6% | 9.1% |
| LA /SA 2009 (NSE) | INC +NCP | 38.9% | 37.4% | 1.5% |
| | BJP + SHS | 35.2% | 30.3% | 4.9% |
| LA /SA 2014 (NSE) | BJP | 27.6% | 27.8% | 0.2% |
| | SHS | 20.8% | 19.8% | 1.0% |
| LA /SA 2019 (NSE) | BJP | 27.84% | 25.75% | 2.09% |
| | SS | 23.50% | 16.41% | 7.09% |
| LA /SA 2024 (NSE) | INC | 16.9% | 12.4% | 4.5% |
| | BJP | 26.2% | 26.8% | 0.6% |

| Table 5 | | | | |
|---------------------------|---------------------|---------------|---------------|----------|
| Karnataka | | | | |
| Year | Top 2 Parties in LS | LS Vote Share | SA Vote Share | Δ |
| LA 2009 /SA 2008 (NSE) | INC | 41.6% | 34.8% | 6.8% |
| | BJP | 37.7% | 33.9% | 3.8% |
| LA 2014/SA 2013 (NSE) | BJP | 41.5% | 19.9% | 21.6% |
| | SHS | 43.4% | 36.6% | 6.8% |
| LA 2019/SA 2018 (NSE) | BJP | 51.74% | 36.35% | 15.39% |
| | INC | 32.11% | 38.14% | 6.03% |
| LA 2024/SA 2023 (NSE) | BJP | 46.1% | 36% | 10.1% |
| | INC | 45.4% | 42.9% | 2.5% |

| Table 6 | | | | |
|---------------------------|---------------------|---------------|---------------|----------|
| Haryana | | | | |
| Year | Top 2 Parties in LS | LS Vote Share | SA Vote Share | Δ |
| LA 1999/ SA 2000 (NSE) | INC | 34.9% | 31.2% | 3.7% |
| | INLD | 28.7% | 29.6% | 0.9% |
| LA 2004/ SA 2005 (NSE) | INC | 42.1% | 42.5% | 0.4% |
| | INLD | 22.4% | 26.8% | 4.4% |
| LA/SA 2009 (NSE) | INC | 41.8% | 35.1% | 6.7% |
| | INLD | 15.7% | 25.8% | 10.1% |
| LA/SA 2014 (NSE) | INC | 23.0% | 20.6% | 2.4% |
| | BJP | 34.8% | 33.2% | 1.6% |
| LA/SA 2019 (NSE) | BJP | 58.20% | 36.49% | 21.71% |
| | INC | 28.51% | 28.08% | 0.43% |
| LA/SA 2024 (NSE) | BJP | 46.1% | 39.9% | 6.2% |
| | INC | 43% | 39.1% | 3.9% |

| Table 7 | | | | |
|--------------------------|---------------------|---------------|---------------|----------|
| Rajasthan | | | | |
| Year | Top 2 Parties in LS | LS Vote Share | SA Vote Share | Δ |
| LA 1999/SA 1998 (NSE) | BJP | 47.2% | 33.2% | 14.0% |
| | INC | 45.1% | 45.0% | 0.1% |

| | | | | |
|--------------------------|-----|--------|--------|--------|
| LA 2004/SA 2003 (NSE) | BJP | 49.1% | 39.2% | 9.9% |
| | INC | 41.4% | 35.7% | 5.7% |
| LA 2009/SA 2008 (NSE) | BJP | 36.6% | 34.3% | 2.3% |
| | INC | 47.1% | 37.0% | 10.1% |
| LA 2014/SA 2013 (NSE) | BJP | 55.6% | 45.1% | 10.5% |
| | INC | 30.7% | 33.0% | 2.3% |
| LA 2019/SA 2018 (NSE) | BJP | 59.06% | 38.77% | 20.29% |
| | INC | 34.59% | 39.30% | 4.61% |
| LA 2024/SA 2023 (NSE) | BJP | 49.2 | 41.7% | 7.5% |
| | INC | 37.9 | 39.5% | 1.6% |

| Table 8 | | | | |
|-------------------------------|---------------------|---------------|---------------|-------|
| Bihar | | | | |
| Year | Top 2 Parties in LS | LS Vote Share | SA Vote Share | Δ |
| LA 1999/ SA 2000 (NSE) | BJP | 23.0% | 28.9% | 5.9% |
| | RJD | 28.3% | 31.3% | 3.0% |
| LA 2004/ SA 2005 Feb (NSE) | JDU | 22.4% | 14.6% | 7.8% |
| | RJD | 30.7% | 25.1% | 5.6% |
| LA 2004/ SA 2005 Oct (NSE) | JDU | 22.4% | 20.5% | 1.9% |
| | RJD | 30.7% | 23.5% | 7.2% |
| LA 2009/SA 2010 (NSE) | JDU | 24.0% | 22.6% | 1.4% |
| | RJD | 19.3% | 18.8% | 0.5% |
| LA 2014/SA 2015 (NSE) | BJP | 29.9% | 24.4% | 5.4% |
| | RJD | 20.4% | 18.4% | 2.0% |
| LA 2019/ SA 2020 (NSE) | BJP | 24.06% | 19.46% | 4.60% |
| | JDU | 22.26% | 15.39% | 6.87% |

| Table 9 | | | | |
|--------------------------|---------------------|---------------|---------------|--------|
| Jharkhand | | | | |
| Year | Top 2 Parties in LS | LS Vote Share | SA Vote Share | Δ |
| LA 2004/SA 2005 (NSE) | INC | 21.4% | 12.1% | 9.3% |
| | BJP | 33.1% | 23.6% | 9.5% |
| LA /SA 2009 (NSE) | INC | 15.0% | 16.2% | 1.2% |
| | BJP | 27.5% | 20.2% | 7.3% |
| LA /SA 2014 (NSE) | INC | 13.5% | 10.5% | 3.0% |
| | BJP | 40.7% | 31.3% | 9.4% |
| LA /SA 2019 (NSE) | BJP | 51.60% | 33.37% | 18.23% |
| | INC | 15.83% | 13.88% | 1.95% |
| LA /SA 2024 (NSE) | BJP | 44.6% | 33.2% | 11.4% |
| | INC | 19.2% | 15.6% | 3.6% |

8. Conclusion

On the basis of the aforementioned analysis and the empirical evidence, the research questions have been as follows:

- i. **Question:** Do voters vote for the same party during simultaneous elections?

Answer: Generally, yes.

- ii. **Question:** Do simultaneous elections prejudice regional issues and regional parties in favour of national issues and national parties?

Answer: It is highly improbable that a regional party will suffer detriment solely because of the election being conducted simultaneously.

- iii. **Question:** Will the voters vote differently if the elections are not held simultaneously?

Answer: The voters vote differently in non-simultaneous elections.

B. ANALYSIS OF THE VOTER BEHAVIOUR DURING SIMULTANEOUS ELECTIONS IN FOREIGN JURISDICTIONS

One of the concerns of holding simultaneous elections in India is that it would affect the behaviour of voters. It has been proposed by many that it would cause uninformed voters to confuse national issues with state issues, thereby causing them to vote on the basis of national issues for state elections, which would inevitably lead to a situation where they vote for the same political party.⁸⁰ This is feared to harm the federal structure of Indian democracy.⁸¹ In this regard, existing models of simultaneous elections in a few jurisdictions are analysed to better understand what factors influence voter behaviour and how much of a role vertical simultaneous elections play.

It is proposed that in foreign jurisdictions where simultaneous elections are being conducted, the behaviour of voters (subjectively) is not, to a great extent, affected by this model of elections.

1. South Africa⁸²

Table 10

| Province | 2024 | | | | |
|--------------|--|---------------------|-----------------------|--------------------------------|--|
| | Four Largest Parties at the National Level | National Vote Share | Provincial Vote Share | Absolute Percentage Difference | |
| Eastern Cape | African National Congress (ANC) | 40.18% | 62.47% | 22.29 | |
| | Democratic Alliance (DA) | 21.81% | 14.62% | 7.19 | |
| | uMkhonto weSizwe (MK) | 14.58% | 1.63% | 12.95 | |

⁸⁰ 2017 NITI Aayog Report, *supra* note 1.

⁸¹ *Id.*, ¶4.11.

⁸² Election Commission of South Africa, *National and Provincial Election Results*, May 10, 2014, available at <http://www.elections.org.za/content/Elections/Election-results/> (Last visited on May 14, 2025).

| | | | | | |
|---------------|---------------------------------|--|--------|--------|-------|
| | Economic Freedom Fighters (EFF) | | 9.52% | 10.07% | 0.55 |
| Free State | African National Congress (ANC) | | 40.18% | 52.88% | 12.7 |
| | Democratic Alliance (DA) | | 21.81% | 21.31% | 0.50 |
| | uMkhonto weSizwe (MK) | | 14.58% | 2.26% | 12.32 |
| | Economic Freedom Fighters (EFF) | | 9.52% | 13.09% | 3.57 |
| Gautenberg | African National Congress (ANC) | | 40.18% | 36.47% | 3.17 |
| | Democratic Alliance (DA) | | 21.81% | 26.65% | 4.84 |
| | uMkhonto weSizwe (MK) | | 14.58% | 10.65 | 3.93 |
| | Economic Freedom Fighters (EFF) | | 9.51% | 12.46% | 2.95 |
| KwaZulu-Natal | African National Congress (ANC) | | 40.18% | 17.62% | 22.56 |
| | Democratic Alliance (DA) | | 21.81% | 13.68% | 8.13 |
| | uMkhonto weSizwe (MK) | | 14.58% | 45.93% | 31.35 |
| | Economic Freedom Fighters (EFF) | | 9.51% | 2.56% | 6.95 |
| Limpopo | African National Congress (ANC) | | 40.18% | 74.23% | 34.05 |
| | Democratic Alliance (DA) | | 21.81% | 6.08% | 15.73 |
| | uMkhonto weSizwe (MK) | | 14.58% | 1% | 13.58 |
| | Economic Freedom Fighters (EFF) | | 9.51% | 12.97% | 3.46 |
| Mpumalanga | African National Congress (ANC) | | 40.18% | 51.89% | 11.71 |

| | | | | |
|---------------|---------------------------------|--------|--------|-------|
| | Democratic Alliance (DA) | 21.81% | 11.84% | 9.97 |
| | uMkhonto weSizwe (MK) | 14.58% | 17.24% | 2.66 |
| | Economic Freedom Fighters (EFF) | 9.51% | 12.71% | 3.2 |
| North West | African National Congress (ANC) | 40.18% | 58.53% | 18.35 |
| | Democratic Alliance (DA) | 21.81% | 13.48% | 8.33 |
| | uMkhonto weSizwe (MK) | 14.58% | 2.2% | 12.38 |
| | Economic Freedom Fighters (EFF) | 9.51% | 16.4% | 6.89 |
| Northern Cape | African National Congress (ANC) | 40.18% | 49.3% | 9.12 |
| | Democratic Alliance (DA) | 21.81% | 21.22% | 0.59 |
| | uMkhonto weSizwe (MK) | 14.58% | 0.94% | 13.64 |
| | Economic Freedom Fighters (EFF) | 9.51% | 12.89% | 3.38 |
| Western Cape | African National Congress (ANC) | 40.18% | 21.34% | 18.84 |
| | Democratic Alliance (DA) | 21.81% | 53.05% | 31.24 |
| | uMkhonto weSizwe (MK) | 14.58% | 0.79% | 13.79 |
| | Economic Freedom Fighters (EFF) | 9.51% | 5.88% | 3.63 |

In South Africa, voters elect candidates to both the National and Provincial Legislatures on the same day.⁸³ The process entails a closed-list proportional representation system, which has had a perceptible impact on voting patterns in the nation. A brief overview of the vote shares, in 2014, of the three largest national parties indicates that they enjoy similarly strong support at the provincial levels, thus effectively shunning any other parties, especially

⁸³ Helen Suzman Foundation, *The South African Electoral System*, HSF, March 20, 2014, available at <https://hsf.org.za/publications/hsf-briefs/the-south-african-electoral-system> (Last visited on May 14, 2025).

regional parties, from establishing their dominance in the political arena.⁸⁴ The analysis of the 1994 elections in South Africa, which were also simultaneous on the national and provincial levels of its democracy, is based primarily on post-liberation credentials.⁸⁵ Despite having been the party largely in power, the ANC was re-elected in 2019 with a lesser majority, and ultimately lost out on a majority in the 2024 elections while losing in 3 out of 9 provinces. An analysis of voter behaviour for keeping ANC in power, as well as reasons behind their removal from the majority, could assist the authors in elucidating the role that simultaneous elections might have played across these election cycles.

It is observed that the ANC is vulnerable to issues that are crucial at the provincial level, but manages to win these elections by impacting voter behaviour through campaigning tactics.⁸⁶ Racial mobilisation continues to be one of the key strategies of major political parties in elections.⁸⁷ Similarly, it has been ANC's handling of national issues that has come under severe scrutiny from its voter base, making it lose its majority. Failure to deliver on issues of unemployment, alongside severe backlash of corruption within the ANC government and with the former President, Jacob Zuma. The ANC in its 2024 elections also supported Cyril Ramaphosa despite the corruption allegations levelled against him, which contributed to the election results. **Such strategies and issues, predominantly national in character, manage to submerge regional issues and allow parties without a strong regional presence to still win at this level.**⁸⁸ While the ANC did manage to do well in some of the provinces, its losses on the provincial front when compared to previous results indicate its decrease in popularity in said front as well. It is this submergence which is created by the concurrence of national and provincial elections, allowing a disproportionate benefit to the national parties, and particularly, in this jurisdiction, the ANC.⁸⁹

Thus, the devolution of power to the Centre allows the ruling party to mobilise on the basis of race, moreover incentivised by the electoral process, to undervalue issues of regional concern. The innate focus of the Centre prevents regional issues from attracting the forefront. Thus, one of the primary questions for the peace-builders in South Africa has come to be the timing of elections.⁹⁰ The argument of the peace-builders is that a separate election pressures leaders to distinguish between issues of national and regional importance. The distaste of the ruling party,

⁸⁴ Election Commission of South Africa, *National and Provincial Election Results*, May 10, 2014, available at <https://www.elections.org.za/content/About-Us/News/Announcement-of-Final-Results--2014-NPE--10-May-2014-18h00-/> (Last visited on May 14, 2025).

⁸⁵ WASHINGTON POST, *Here Are 4 Reasons That South Africa's ANC Lost Ground in This Month's Election*, August 8, 2016, available at <https://www.washingtonpost.com/news/monkey-cage/wp/2016/08/12/here-are-4-reasons-that-south-africas-african-national-congress-lost-ground-in-this-months-election/> (Last visited on May 14, 2025).

⁸⁶ Michael J. Braun, *'Thin' Loyalty and Declining Attachment to the African National Congress*, Vol. 62(1), COMMONWEALTH & COMPARATIVE POLITICS, 37 (2023) ('Braun').

⁸⁷ Gavin Davis, *Proportional Representation and Racial Campaigning in South Africa*, Vol. 10(2), NATIONALISM AND ETHNIC POLITICS, 297 (2004).

⁸⁸ WASHINGTON POST, *Here Are 4 Reasons That South Africa's ANC Lost Ground in This Month's Election*, August 8, 2016, available at <https://www.washingtonpost.com/news/monkey-cage/wp/2016/08/12/here-are-4-reasons-that-south-africas-african-national-congress-lost-ground-in-this-months-election/> (Last visited on May 14, 2025).

⁸⁹ Braun, *supra* note 86, 39.

⁹⁰ Benjamin Reilly, *Timing and Sequencing in Post-Conflict Elections*, 9 (Australia CRPD Working Paper No. 26, 2015); Braun, *supra* note 86, 36.

i.e. ANC, towards a federal structure is well-documented and has been held accountable for the declining federal structure within South Africa, which manifests in a hegemony over politics at both levels of this multi-tier democracy.⁹¹

2. Italy

In Italy, citizens simultaneously cast their votes for the 400-member lower chamber, known as the Camera dei Deputati, and the 205-member Senate, known as the Camera del Senato.⁹² Studies in the past have deduced that holding these elections simultaneously has two discernible effects on voter behaviour in Italy- increased voter turnout alongside high vote congruence.⁹³ However, the 2022 elections contribute to the changing times, and likewise, the change in validity of said hypotheses.

Scholars have noted that the 2022 election had the lowest voter turnout since the post-war period. While cities like Sicily have had higher voter participation than some others, the voter turnout in such crucial provinces has also been abysmal, with an increase in the number of blank votes. The causality of simultaneous elections being the reason for the same might be suspect. However, it is evident from the exercise that simultaneous elections on their own cannot increase voter turnout, potentially requiring the support of other factors to reach such a result.

Furthermore, the fact of voter congruency continues to hold itself upright. The Centre-Right coalition, the majority coalition that won the 2022 elections, only had a difference of 0.1% in the votes it received between the two chambers. This has been attributed to the severe anti-incumbency that arose during the Draghi Government's tenure, alongside the ability of the coalition to showcase itself as a singular, unified entity. Such a wave of discontentment allows simultaneity to permeate into the vote share of parties as well, wherein voters begin taking the national election vote as the decisive vote.⁹⁴

Three theories are used to describe this phenomenon. The first theory accounts for the vote share congruence by using the second-order theory, in support of voter bias towards nationalisation. The **second-order election theory**,⁹⁵ explains that voters form decisions based on the information available to them at the time and thus allow the less salient elections to play a small role in their decision, being guided by the highly salient elections. However, this theory is largely restricted to transnational elections (such as EU Parliament Elections) vis-à-vis national elections.⁹⁶

On the other hand, two theories argue that vote share congruence cannot be

⁹¹ Only the Democratic Alliance has broken through this hegemony in the Western Cape, in the 2014 elections, See J. Piombo, INSTITUTIONS, ETHNICITY, AND POLITICAL MOBILIZATION IN SOUTH AFRICA (2009).

⁹² Alia Chughtai, *Understanding Italian Elections 2018*, AL JAZEERA, March 4, 2018, available at <https://www.aljazeera.com/news/2018/3/4/understanding-italian-elections-2018> (Last visited on May 14, 2025).

⁹³ Emanuele Bracco, *Concurrent Elections and Political Accountability: Evidence from Italian Local Elections*, 2 (Economics Working Paper Series 2017/013, 2017).

⁹⁴ Arjan H. Schakel & Régis Dandoy, *Electoral Cycles and Turnout in Multilevel Electoral Systems*, Vol. 37(3), WEST EUROPEAN POLITICS, 612 (2014).

⁹⁵ Karlheinz Reif & Hermann Schmitt, *Nine Second-Order National Elections — A Conceptual Framework for the Analysis of European Election Results*, Vol. 8(1), EUROPEAN JOURNAL OF POLITICAL RESEARCH (1980) ('Reif & Schmitt').

⁹⁶ Arjan H. Schakel et al., *Congruence Between Regional and National Election*, Vol. 46(5), COMPARATIVE POLITICAL STUDIES, 634 (2015) ('Schakel et al.').

correlated with simultaneous elections. Even in the presence of simultaneity of polls, voter behaviour is explained as per the theorised reasons. These argue that when these simultaneous elections are held in provinces with distinctive territorial identities, ensuring **territorial heterogeneity**, votes are less likely to be congruent.⁹⁷ This theory is relevant to the Indian context, where the argument against vote share congruence at multiple levels of democracy is defeated by the theory that each state assembly election forces into focus an independent set of ethnic and territorial identities. These identities and issues will ensure the rise of regionalist parties, even as observed in Western Europe (such as Sweden and Italy).⁹⁸ Third, it is argued that **regional authority** is a key variable in shifting voter behaviour away from taking cues from the national vote.⁹⁹ By vesting power in regional powers and decentralising it, the regional powers will also be incentivised to delineate from the national powers, thus ensuring a distinction in campaigning, which will in turn affect vote shares.¹⁰⁰

3. Sweden

Table 11

| Year | Two Largest Parties | General Elections | County Council Elections | Difference |
|------|---------------------|-------------------|--------------------------|------------|
| 2002 | Social Democrats | 39.85% | 38.40% | 1.45% |
| | Moderate Party | 15.26% | 16.60% | 1.34% |
| 2006 | Social Democrats | 34.99% | 34.90% | 0.9% |
| | Moderate Party | 26.23% | 24.60% | 1.63% |
| 2010 | Social Democrats | 30.66% | 33% | 2.34% |
| | Moderate Party | 30.06% | 27.3% | 2.76% |
| 2014 | Social Democrats | 31% | 32.9% | 1.9% |
| | Moderate Party | 23.3% | 21.5% | 1.8% |
| 2018 | Social Democrats | 31.0% | 28.74% | 2.26% |
| | Moderate Party | 23.3% | 19.28% | 4.02% |
| 2022 | Social Democrats | 30.33% | 38.48% | 8.15% |
| | Sweden Democrats | 20.54% | 16.60% | 3.90% |

In Sweden, elections occur once every four years, simultaneously, for the allocation of seats in the *Riksdag* (the national level legislative body), the County Councils and the Municipal

⁹⁷ *Id.*

⁹⁸ Pierre Baudewyns et al., *The Success of the Regionalist Parties in the 2014 Elections in Belgium*, Vol. 25(1), REGIONAL & FEDERAL STUDIES, 96 (2015).

⁹⁹ Schakel et al., *supra* note 96, 641.

¹⁰⁰ Pierre Baudewyns et al., *The Success of The Regionalist Parties in the 2014 Elections in Belgium*, Vol. 25(1), REGIONAL & FEDERAL STUDIES, 98 (2015).

Assemblies.¹⁰¹ The Swedish regional parties are not as independent or diverse as Indian parties. In Sweden, the counties enjoy a minimal level of autonomy and are entrusted with few powers, so they cannot have the same kind of impact that a state party in, say, Karnataka would have.

Data has been taken for four elections that occurred between 2002 and 2014. The two major parties in Sweden are the Social Democrats ('SDs') and the Moderates ('MDs'). From 2002–2006, the Social Democrats were in office, and they obtained a majority of seats in the county council elections as well.¹⁰² From 2006–2010, though the Social Democrats obtained the highest percentage of votes, the coalition party 'Alliance for Sweden' (which was led by the Moderate Party and a few smaller parties) won the parliamentary elections.¹⁰³ However, post-2018, the Moderate Party has been replaced by the right-wing Sweden Democrats as the largest party at both the frontiers, notably due to issues surrounding asylum refuge in Sweden and the failure of COVID-19 management has led to a right-wing coalition taking the helm of affairs, with the Sweden Democrats being second largest party now.¹⁰⁴

For our current proposition, the important factor is the difference between the general and county elections. The data signifies an incomplete but conspicuous shift in the trend. From 2002–2014, the disparity seems to be almost negligible, with the pattern being largely the same. However, post-2014, with the rise of blue-collar unemployment and slow but steady anti-incumbency against the Social Democrats, we can notice the disparity increasing, albeit still low. One could argue that this is the effect of simultaneous elections, but there are a lot of other factors in play.

The Social Democrats had already been in power from 1998–2002; the fact that they were re-elected shows that the citizens were satisfied with the level of administration and policy changes brought in by the incumbent government.

There is very little evidence to show that this is a direct effect of holding elections simultaneously. Although it is to be noted that in Sweden, the regional independence is quite low, the counties do not play much of a role presently. However, in 1996, the national party strengthened a few counties to make important policy decisions, and this measure continued until 2002.¹⁰⁵ It could once again be argued that this played a huge role in the elections, as the Social Democrats won over seats from these counties.¹⁰⁶ Looking at the regional votes, the opposition's votes grew in all Swedish regions (except Stockholm and Skane), which once again mitigates the assumption that simultaneous elections would lead to mindless voting for the national party.¹⁰⁷

Coming to the 2006 elections, there was a shift in popularity, and this was owed to the fact that the SD's response to the natural disaster (Cyclone Gudrun) that struck Sweden was

¹⁰¹ SWEDEN.SE, *Elections in Sweden*, <https://sweden.se/life/democracy/elections-in-sweden> (Last visited on May 14, 2025).

¹⁰² Swedish National Data Service, *Swedish Electoral Data: General Elections 1973–2006*, available at <https://snd.se/en/catalogue/search?studyIdentifierRecirect=snd0237> (Last visited on February 14, 2025).

¹⁰³ *Id.*

¹⁰⁴ Steven Erlanger and Christina Anderson, *Rise of Far-Right Party in Sweden Was Both Expected and Shocking*, THE NEW YORK TIMES, September 15, 2022, available at <https://www.nytimes.com/2022/09/15/world/europe/sweden-election-far-right.html> (Last visited on January 31, 2025).

¹⁰⁵ Valentyna Romanova, *The Principle of Cyclicity of the Second-Order Election Theory for Simultaneous Multi-Level Elections*, Vol. 34(2), POLITICS, 166 (2013) ('Romanova').

¹⁰⁶ *Id.*

¹⁰⁷ *Id.*, 176.

subpar at best.¹⁰⁸ This was crucial to the results in the general elections as well as the regional elections, as party accountability rose. The new opposition party performed worse in most regions but continued to perform well in cities such as Stockholm.¹⁰⁹ Once again, simultaneous elections have had little to no effect.

In the 2010 elections, the Moderate Party retained power at the national level and performed better than it had in the last three elections, but the SDs attracted more support in the regional elections of most regions.¹¹⁰ If the criticism of simultaneous elections were to hold true, then the MDs should have performed equally well in the regional elections, but as the data suggests, this is not true. Sweden has also seen the growth of many regional parties (mostly single-issue parties) that improve what they perceive to be the failures of the national parties in power, and these parties have garnered votes at the regional level.¹¹¹ Though the elections occur simultaneously, these regional parties that have little to no national presence manage to obtain votes and stay in power in their respective regions.¹¹²

Looking at the 2014 elections, the MDs once again lost power, and the SDs became the ruling party. At the regional level as well, the MDs lost a large percentage of votes, and the SDs gained them. Once again, this can be attributed to the general change of leadership around that time and the dissatisfaction of the people with the incumbent government.

Since 2014, however, there has been a noticeable increase in localised voting, where voters choose to vote for different parties at the municipal or local level based on their preferences. This seeks to deviate from the second-order election theory, which is marked by voter congruence. Our data analysis also indicates such instances of localised voting, with the disparity increasing with time, while also signifying that simultaneous elections are not a necessary obstacle to localised voting patterns.

However, one cannot lose sight of the fact that congruence continues to exist among the Swedish voter base. The replacement of MDs by SDs in both national and county council elections is reflective of such a conclusion. Similarly, the disparity in votes received by the two largest parties continues to have only a slight difference. While literature has not been able to attribute this effect to the simultaneous elections' framework, the anti-incumbency arising out of Sweden's political and economic turmoil has ostensibly contributed to the voting pattern on both levels. This indicates the presence of localised voting increasing, but does not discount the role of a catalyst that such an election framework plays, depending on the context at hand. The findings of Sweden could be potentially applied to India, where elections on several occasions have been fought due to anti-incumbency arising from national issues and failures of incumbent governments.

¹⁰⁸ See L.M. Eriksson, *Winds of Change. Voter Blame and Storm Gudrun in the 2006 Swedish Parliamentary Election*, Vol. 41, ELECTORAL STUDIES, 137 (2016).

¹⁰⁹ Romanova, *supra* note 105.

¹¹⁰ *Id.*

¹¹¹ Linda Berg & Henrik Ekengren Oscarsson, *Sweden: From Mid-Term County Council Elections to Concurrent Elections* in REGIONAL AND NATIONAL ELECTIONS IN WESTERN EUROPE TERRITORIALITY OF THE VOTE IN THIRTEEN COUNTRIES, 20 (Régis Dandoy & Arjan H. Schakel eds., Springer, 2013).

¹¹² *Id.*

4. Belgium

Table 12

| Year | Two Largest Parties | Federal Elections | Regional Elections (Flemish Parliament) | Δ | Regional Elections (Walloon Parliament) |
|------|--------------------------------|-------------------|---|--------|---|
| 1999 | Flemish Liberals and Democrats | 14.30% | 22.04% | 7.74% | <1% |
| | Christian People's Party | 14.09% | 22.09% | 8% | <1% |
| 2014 | New Flemish Alliance | 20.26% | 31.88% | 11.62% | <1% |
| | Socialist Party | 11.67% | 20.48% | 8.81% | 30.96% |
| 2019 | New Flemish Alliance | 16.03% | 24.83% | 8.8% | <1% |
| | Vlaams Belang | 11.95% | 18.50% | 6.55% | <1% |
| 2024 | New Flemish Alliance | 16.71% | 22.88% | 6.17% | <1% |
| | Vlaams Belang | 13.77% | 22.66% | 8.89% | <1% |

In Belgium, there have been four instances of simultaneous federal and regional elections: in 1999, 2014, 2019, and most recently in 2024. After 1960, Belgian politics witnessed the rise of ethno-linguistic parties, resting on the fulcrum of increasing strife between the Dutch-speaking Flemings in the north and the French-speaking Walloons in the south.

From the data obtained, it appears that parties that have obtained a large percentage of votes in the Federal Elections are the same ones that have obtained votes in the regional elections as well (with respect to the Flemish Parliament).

In 1999, we see that the Flemish Liberals and Democrats ('VLD') gained a large percentage in the regional elections, but at the same time, other smaller parties such as the Flemish Block (*Vlaams Blok*) and the Living Differently (*Groen*) also grew in votes when compared to previous years.¹¹³ Further, the Christian People's Party ('CVP') obtained more votes than the VLD in the regional elections. Similarly, in 2014 as well, though the parties that won the federal elections have obtained a large percentage of votes in the regional elections, other parties such as Christian Democratic & Flemish, Open Flemish Liberals and Democrats, Green and Workers' Party have seen a rise in votes. This is also noticed with the increase in *Vlaams Blok's* increase in vote share across 2019 and 2024, with a decrease for the Flemish Alliance. **The fact that the aforementioned regional parties grew with respect to vote share clearly militates against the contention of voter bias for national parties in simultaneous elections, when seen through the lens of such data.**

Furthermore, when compared with the Walloon Parliament elections, we see that in 1999, both the leading federal parties performed extremely poorly. In 2014, the Socialist Party gained a large percentage, whereas the New Flemish Alliance hardly had any presence in the

¹¹³ Tim Lansford, *Belgium* in POLITICAL HANDBOOK OF THE WORLD 2014, 132 (T. Lansford ed., CQ Press, 2014).

elections,¹¹⁴ which continues to remain the *status quo* to this day. This distinction between Flanders and Wallonia might not be completely attributed to ideological preferences, as a shift to the liberal-conservative MR party signifies a shift to the right from the socialist leanings. This is more so because of the language split in Belgium — while the Socialist Party disavows any outright linguistic affiliation, the Dutch-oriented Flemish parties have limited popularity in the French-speaking Walloon region, whose support has been garnered by parties such as MR. **Thus, the linguistic federal aspect clearly dominates over preferences for national parties, even during simultaneous elections in Belgium.**

Thus, similarly, many regional parties in Indian states represent different identities such as caste, language, religious ideologies, etc., and while these exist, **the similarity in the share of votes polled should not be attributed merely to the fact that the elections were conducted simultaneously. There are clearly more nuanced factors at play in every polity with federal features.**

Nonetheless, it is to be kept in mind that the political scenario of Belgium is vastly different from India, not only in terms of electoral structure, and hence the findings from analysing these elections can only serve as one of many possible outcomes of holding simultaneous elections in India.

C. HARMONISING THE OBSERVATIONS REGARDING VOTING BEHAVIOUR IN SIMULTANEOUS ELECTIONS: INTERLINKING NORMATIVE AND EMPIRICAL ASPECTS

During the course of our analysis, we have analysed a diverse set of data, which includes numerous Indian states along with other foreign jurisdictions which already have a system of simultaneous elections. In the above analysis, we came across a diverse set of conclusions, too. While a congruent voting choice for both national and regional elections has been a dominant pattern in this analysis, it has also been observed that such congruency is not universal, as voters also tend to vote differently for each tier in the same election, like in the case of Sweden. Similarly, while results of simultaneous elections were dominated by regional parties and regional issues in certain cases,¹¹⁵ there were cases where the elections remained largely untouched by the regional issues.¹¹⁶ This part attempts to harmonise various conclusions and tries to chalk out broad principles based thereon.

1. Explaining the Vote Convergence

Congruency in voting is often linked with the level of information required for voting.¹¹⁷ It is argued that each vote requires the voter to acquire a unique set of information about the candidates contesting the elections, which in turn involves the voter investing time and energy in collating information.¹¹⁸ While performing this exercise once may be easy for a voter, its repetition comes at the cost of additional time and energy required to be spent in collating

¹¹⁴ *Id.*

¹¹⁵ See, e.g., Odisha, Andhra Pradesh (Table 1), Tamil Nadu (Table 2), Belgium (Table 12).

¹¹⁶ See, e.g., South Africa, Italy (Table 9).

¹¹⁷ David Anderson, *Crowded Out: The Effects of Concurrent Elections on Political Engagement, Candidate Evaluation, and Campaign Learning in the United States*, Vol. 60(2), REPRESENTATION, 331 (2024) ('Anderson').

¹¹⁸ *Id.*

information regarding other candidates. Thus, if a voter has no extra incentive to engage in such an exercise, the voter ends up voting for the second candidate based on the information gathered for the first one.¹¹⁹ In case of India, the electoral information is not readily available,¹²⁰ and hence this exercise may prove to be even more burdensome to the Indian voter who will, as our analysis has shown, most probably end up voting for the same candidate at both the levels.

It has also been argued that, in light of limited electoral information or high cost of acquiring information, the congruency in votes during simultaneous elections stems from certain cues or shortcuts that the voter relies on. **A few prevalent cues that various studies have identified are political party membership,¹²¹ personal likeability,¹²² exogenous endorsement,¹²³ and retrospective appraisal of incumbent's performance.¹²⁴ Out of this, political party membership cues are perhaps one of the most recognised (and prevalent).** Propounded by Campbell in his seminal work called 'The American Voter', the work posits that in case of concurrent elections the voter votes for the co-partisan contestant at one level if the voter has decided to vote for another contestant from the same party at any corresponding higher or lower level based on the information that he already has.¹²⁵ A study conducted by the IDFC Institute on the Indian voting behaviour confirms Campbell's analysis to be true in the Indian Setting too. In the aforementioned study, it was observed that in the Assembly elections that were held simultaneously with the Lok Sabha Election, 86% of the voters chose to vote for the co-partisan contestants for both the houses.¹²⁶ Similarly, the effect of a retrospective analysis of an incumbent's performance has also been the basis of the congruent decision. In the simultaneous elections, voters tend to vote for a party at the tier of lower salience based on the performance of the party at the tier of higher salience.¹²⁷ A prime example of this behaviour is the performance of the Congress state units in the elections that were held in 1977. Congress at the centre was reeling from a strong wave of anti-incumbency post the upliftment of emergency, and the Congress-ruled states like West Bengal, which went to the election in 1977, were swept out of power.¹²⁸

Natural vote incongruence, though rare in simultaneous elections, is generally seen in elections where there is relatively higher electoral awareness in voters, such that electoral information is made available with considerable ease.¹²⁹ An example of such a scenario would be where two candidates from the popular masses, who belong to different parties, are contesting elections at different vertical tiers. A vote incongruence can also be created artificially. The Tamil

¹¹⁹ *Id.*

¹²⁰ Ravi Duggal, *Election in India: Transparency, Accountability & Corruption*, INTERNATIONAL BUDGET PARTNERSHIP, May 14, 2014, available at <https://internationalbudget.org/elections-in-india-transparency-accountability-and-corruption-2/> (Last visited on February 14, 2025).

¹²¹ Angus Campbell et al., *THE AMERICAN VOTER* (University of Chicago Press, 1960) ('Campbell').

¹²² Paul Sniderman et al., *REASONING AND CHOICE: EXPLORATIONS IN POLITICAL PSYCHOLOGY* (Cambridge University Press, 1993).

¹²³ Arthur Lupia, *Shortcuts Versus Encyclopedias: Information and Voting Behavior in California Insurance Reform Elections*, Vol. 1, *AMERICAN POLITICAL SCIENCE REVIEW*, 88 (1994).

¹²⁴ Morris Fiorina, *RETROSPECTIVE VOTING IN AMERICAN NATIONAL ELECTIONS* (Yale University Press, 1981) ('Morris').

¹²⁵ Campbell, *supra* note 121, 192.

¹²⁶ Chakravarty, *supra* note 9.

¹²⁷ Morris, *supra* note 124.

¹²⁸ Desh Gupta, *India: The Weakening of the Congress Stranglehold and the Productivity Shift in India* (ASARC Working Paper Series Paper 6, 2009).

¹²⁹ Anderson, *supra* note 117; See, e.g., Sweden 2010 (Table 9).

Nadu simultaneous election of 1991 can be considered to be an example of artificial vote incongruence, as the discrepancy of votes was not due to voter choice but due to a lack thereof, as the INC did not contest half of the Assembly seats.¹³⁰

Thus, we see that in elections with lower electoral information dissemination and higher cost of obtaining electoral information, there will be more congruency of votes than in elections where electoral information is readily available at a minimum expenditure of a voter's time and energy.

2. Explaining the Nationalisation/Regionalisation Dichotomy

In our analyses, while the effect of vote congruence was more or less similar in all the jurisdictions, there exists considerable variation in the direction in which the vote congruence worked. While in certain cases a strong regionalisation effect was seen,¹³¹ in certain others a strong nationalisation effect was also seen.¹³² **The theory of higher salience is used to explain the direction in which the vote congruence works.**¹³³ This theory propounds that in a concurrent election, a higher salience election will determine the outcome of the lower salience election.¹³⁴ Say, for example, if the voters attach more importance to the national election than the regional election, then the regional election will be the lower salience election, wherein the voter's choice will be determined by the choice of the voter in the national elections.

In India, it has been argued that the state is the more salient tier of governance, at least in regard to the electoral choice.¹³⁵ Chibber and Kollman hold that the Indian masses hold the state more responsible than the centre for a host of public issues like health care, education etc.¹³⁶ In the study conducted by the duo, more than 60% of the respondents held the state responsible even for the issues which were outside the competence of the state to legislate on.¹³⁷

Similarly, in a study conducted by Prof. Yogendra Yadav and Suhas Palshikar, wherein they analysed various elections between 2004 and 2009 and came to the conclusion that while the centre has legislative dominance, it is the states which enjoy the political dominance.¹³⁸ In the study, it has been argued that the national electoral outcomes derive from principal electoral contests at the state level.¹³⁹

Our analyses of voting behaviour in Indian and foreign elections are in consonance with the aforementioned studies. Since in India, the state is seen as the principal electorate, we observe that regional parties do well in Lok Sabha elections too, whenever they are held with the Assembly elections.¹⁴⁰ Since voters choose the performance of the party at the state level as the

¹³⁰ See Table 2.

¹³¹ See, e.g., Orrisa (Table 1), Belgium (Table 9).

¹³² See, e.g., South Africa, Italy (Table 8).

¹³³ Reif & Schmitt, *supra* note 95.

¹³⁴ *Id.*

¹³⁵ Pradeep Chibber & Ken Kollman, THE FORMATION OF NATIONAL PARTY SYSTEM: FEDERALISM AND PARTY COMPETITION IN CANADA, GREAT BRITAIN, INDIA AND UNITED STATES, 345 (Princeton University Press, 2004).

¹³⁶ *Id.*

¹³⁷ *Id.*

¹³⁸ Yogendra Yadav & Suhas Palshikar, *Principal State Level Contests and Derivative National Choices: Electoral Trends in 2004–09*, Vol. 6, ECONOMIC AND POLITICAL WEEKLY, 58 (2009).

¹³⁹ *Id.*

¹⁴⁰ See, e.g., Andhra Pradesh, Odisha & Sikkim 2014 (Table 1).

criteria for election, a strong regionalisation effect is seen during simultaneous elections in India. In contrast, countries like South Africa and Italy stand at the opposite spectrum. There are issues like racism that are of national importance, and since during elections they become the fulcrum of the campaign, we see a strong nationalisation effect in simultaneous elections there.¹⁴¹

Thus, the effect of nationalisation or regionalisation in a simultaneous election is dependent on the criteria the voter chooses to base their vote on. If the criteria of voting pertain to regional issues, then a regionalisation effect will be observed, and if the criteria pertain to a national issue, then a nationalisation effect will be observed.

IV. CONSTRUCTIVE VOTE OF NO-CONFIDENCE: IMPACT ON TENURE AND DISSOLUTION OF LOK SABHA AND STATE LEGISLATIVE ASSEMBLIES

A. A BRIEF CONTEXTUAL BACKGROUND

A parliamentary democracy ensures a check on the executive by the legislature, which is what lends legitimacy to the government in power. The concept of a government terminating prior to its prescribed parliamentary term is premised on this and allows the legislature to displace the government through a vote of no-confidence.¹⁴² Votes of No-Confidence are classified into two: a regular vote of no-confidence and a constructive vote of no-confidence.

This concept emanates from West Germany, where it was first used; it has found application in various other jurisdictions since, including Spain, Hungary, Israel, Slovenia, Lesotho, *etc.* In the history of Germany, it has been used only twice, of which one was a successful exercise of the provision.¹⁴³ This provision emerged from the observed instability in the office of the Chancellor in the Weimar Republic, wherein Chancellors would keep coming to power and leaving because they did not enjoy a majority in the House, but their predecessor had lost a vote of confidence.¹⁴⁴

Constructive censure provides that a Chancellor can only be ousted from office if a prospective Chancellor has a positive majority, as determined by a secret ballot.¹⁴⁵ This means, a vote of confidence, which does not win the majority, i.e., a lost motion, does not itself constitute grounds for the resignation of the Chancellor, dissolution of Parliament and the consequent formation of a new government.¹⁴⁶ This ensures that the government is never without a Chancellor, which is especially imperative in a multi-party system, which may require a larger interim period to elect a new party or even a coalition.¹⁴⁷

¹⁴¹ See *supra* Table 8.

¹⁴² Daniel Diermeier et al., *A Structural Model of Government Formation*, Vol. 7(1), *ECONOMETRICA*, 62 (2003) ('Diermeier').

¹⁴³ NEW YORK TIMES, *Bonn Parliament Votes Out Schmidt and Elects Kohl*, February 2, 1982, available at <https://www.nytimes.com/1982/10/02/world/bonn-parliament-votes-out-schmidt-and-elects-kohl.html> (Last visited on February 14, 2025); Grundgesetz (The Constitution of the Federal Republic of Germany), 1949, Arts. 67, 68.

¹⁴⁴ Diermeier, *supra* note 142.

¹⁴⁵ Reuven Y. Hazan, *Presidential Parliamentarism: Direct Popular Election of the Prime Minister, Israel's New Electoral and Political System*, Vol. 15(1), *ELECTORAL STUDIES*, (2005).

¹⁴⁶ *Id.*

¹⁴⁷ Sabine Michalowski & Woods German, *CONSTITUTIONAL LAW: THE PROTECTION OF CIVIL LIBERTIES*, 14 (1999).

B. IMPLEMENTATION IN FOREIGN JURISDICTIONS

This was also initially being imbibed in Britain, in a certain form, which departed from its conventional approach to the motion of no-confidence after the enforcement of the Fixed-Term Parliaments Act, 2011, whereby the House of Commons must have simultaneously vested confidence in a new government to replace the incumbent, while passing a motion of no-confidence in the existing government.¹⁴⁸ On failure to do so, early elections would be called. However, in 2021, the Dissolution and Calling of Parliament Bill, which repealed the 2011 Act, received royal assent.¹⁴⁹ Thereafter, the prerogative power of dissolution of the government was restored to the monarch, at the request of the Prime Minister.¹⁵⁰

It has also been examined for viable application in the United States of America.¹⁵¹ Currently, the President of the United States does not need to have an absolute majority when elected due to the electoral college system,¹⁵² as seen in the recent 2024 elections, where President-elect Donald Trump did not secure the popular vote (also observed in his 2016 victory).¹⁵³ This system has been criticised due to its over-dependence on polls every four years as the only remedy for voters, despite their widespread disapproval of the President.¹⁵⁴ To that end, a constructive vote of no-confidence could constitute a viable solution, whereby Congress could remove the President from power even before the next election, while simultaneously naming a suitable alternate.¹⁵⁵ Scholars have proposed that such a candidate could be from the same party, to prevent a change of the ‘character’ of the government when no elections are conducted.¹⁵⁶ Alternatively, Congress could be dissolved (on passing of the no-confidence motion), with fresh elections conducted simultaneously for Congress as well as the Presidency.¹⁵⁷

A brief comparison of the constructive vote of no-confidence as implemented in foreign jurisdictions is encapsulated in the table below.¹⁵⁸

Table 13

¹⁴⁸ Roxan Venter, *Motions of No-Confidence: Parliament's Executive Check and Checkmate*, J. S. AFR. L., 407 (2014).

¹⁴⁹ Press Release, United Kingdom Cabinet Office, *Tried and tested system for calling elections restored*, March 24, 2022, available at <https://www.gov.uk/government/news/tried-and-tested-system-for-calling-elections-restored> (Last visited on January 5, 2024); Dissolution and Calling of Parliament Bill, 2022 (United Kingdom).

¹⁵⁰ *Id.*

¹⁵¹ Sanford Levinson & Jack M. Balkin, *Constitutional Dictatorship: Its Dangers and Its Design*, Vol. 94, MIN. L. REV., 1940 (2010) (‘Levinson’).

¹⁵² *Id.*

¹⁵³ James FitzGerald, *Just How Big was Donald Trump's Election Victory?*, BBC NEWS, November 23, 2024, available at <https://www.bbc.com/news/articles/cn5w9w160xdo> (Last visited on January 5, 2024).

¹⁵⁴ Levinson et. al, *supra* note 151.

¹⁵⁵ *Id.*

¹⁵⁶ *Id.*

¹⁵⁷ *Id.*

¹⁵⁸ Bozek Michal, *The Origins of the Constructive Vote of No-Confidence*, Vol. 5, PREZEGLAD SEJMOWY (2011); Arthur Lupia & Kaare Strøm, *Coalition Termination and the Strategic Timing of Parliamentary Elections*, Vol. 3(89), THE AMERICAN POLITICAL SCIENCE REVIEW (1995).

| Country | Year Adopted | Introduction of the Vote | Procedure Followed |
|-------------------------|--------------|--|--|
| Germany ¹⁵⁹ | 1949 | No specific provision | Expression of lack of confidence must be done, accompanied by electing a succeeding government, within 48 hours. |
| Spain ¹⁶⁰ | 1978 | At least 10% of the Chamber (prohibition on initiation of another vote during same session by same MPs) | The procedure followed was translated from Germany, but allowed a five day timeframe. |
| Hungary ¹⁶¹ | 2024 | At least 20% of the MPs | Timeframe ranges from 3–8 days. |
| Slovenia ¹⁶² | 1991 | At least 10 deputies | Timeframe must be at least 48 hours between the vote and election. |
| Poland ¹⁶³ | 1997 | At least 46 Deputies – 10% (Prohibition on same vote within the following 3 months, unless an increased 115 Deputies' support is shown.) | The vote on the motion must take place within a week. |

C. HLC'S ASSESSMENT OF CVNC IN SIMULTANEOUS ELECTIONS

The concept of CVNC originated in Germany as a legislative mechanism designed to address the acute parliamentary instability prevalent during the Weimar Republic.¹⁶⁴ This model states that unless the opposition decides upon an alternative head of the state to replace the current

¹⁵⁹ Grundgesetz, (The Constitution of the Federal Republic of Germany), 1949, Art. 67, 68.

¹⁶⁰ The Constitution of Spain, 1978, Art. 113.

¹⁶¹ The Fundamental Law of Hungary, Art. 21.

¹⁶² The Constitution of Slovenia, 1991, Arts. 116, 117.

¹⁶³ The Constitution of the Republic of Poland, 1997, Art. 158.

¹⁶⁴ Grundgesetz (The Constitution of the Federal Republic of Germany), 1949, Art. 67.

one, no no-confidence motions can be introduced in the Parliament.¹⁶⁵ The primary objectives of the German drafters were to safeguard the executive from an ‘irresponsible legislature’ and to prevent frequent and destabilising parliamentary dissolutions.¹⁶⁶ These goals closely align with the intended objectives of implementing the simultaneous elections Model in India. In this context, the rejection of the CVNC model by the HLC Report, as well as its exclusion from the recent Constitution Amendment Bill, appears to undermine the rationale for adopting this electoral reform in the first place.¹⁶⁷

The HLC report examined various international practices that could potentially be adopted in India to facilitate the implementation of Simultaneous elections.¹⁶⁸ Among these, the report considered the German model of CVNC, which was primarily advocated by Dr Subhash C. Kashyap.¹⁶⁹ The CVNC model was recommended as it offers greater executive stability compared to the existing Regular Vote of No Confidence (‘RVNC’) mechanism. By minimising the likelihood of hung parliaments, this model enhances political stability, an essential prerequisite for the successful implementation of simultaneous elections.

However, the HLC rejected this proposal, citing reasons such as dilution of the right of MPs to bring the no-confidence motion.¹⁷⁰ While this might be true, maintaining the *status quo* would render the new government model ineffective. As an alternative, the committee proposed a framework whereby, in the event of a government losing a vote of no confidence, fresh elections would be held. The newly elected government would then serve only for the remainder of the original five-year term of the previous government.¹⁷¹ This model proposed by the HLC, nonetheless, fails to address the stability requirement for the implementation of simultaneous elections.

The HLC Report and the proposed amendment bill appear to adopt a rather limited perspective, ultimately hindering the effective implementation of simultaneous elections and undermining their overarching objectives. The primary rationale for introducing this electoral model includes ensuring political stability, reducing the financial burden of frequent elections, and enabling ministers to prioritise governance and constructive political engagement over continuous electioneering.¹⁷² However, the existing RVNC mechanism is ill-equipped to support these aims. Historical trends over the past few decades indicate that the RVNC has been employed frequently in Indian politics, resulting in recurrent governmental instability.¹⁷³ Without adequately addressing this persistent destabilisation, any shift in the electoral framework is unlikely to yield significant

¹⁶⁵ Malte Pehl, *Debate on the Constructive Vote of No-Confidence in India-Trading in Accountability for Stability*, Vol. 49(1), VRÜ, (2016).

¹⁶⁶ Elsa Pierseg, *Reconsidering Constructive Non-Confidence for Canada: Experiences from Six European Countries*, CAN. P. REV., 6 (2016) (‘Pierseg’).

¹⁶⁷ HLC Report, *supra* note 2; The Constitution (One Hundred and Twenty-Ninth Amendment) Bill, Bill No. CCLXXV of 2024, Cl. 3.

¹⁶⁸ HLC Report, *supra* note 2.

¹⁶⁹ *Id.*, ¶119.

¹⁷⁰ *Id.*, ¶111.

¹⁷¹ The Constitution (One Hundred and Twenty-Ninth Amendment) Bill, Bill No. CCLXXV of 2024, Cls. 3, 4.

¹⁷² Janay Jain, *Simultaneous Elections can Strengthen Democracy*, THE INDIAN EXPRESS, September 26, 2024, available on <https://indianexpress.com/article/opinion/columns/simultaneous-elections-can-strengthen-democracy-9588264/> (Last Visited on January 7, 2025).

¹⁷³ HLC Report, *supra* note 2.

benefits. Dr Kashyap's recommendations in the HLC Report for the German CVNC model are representative of the same.

As discussed in the preceding sections, the CVNC model has been adopted by ten countries, primarily in Europe. The primary impetus for this transition has been the necessity to shield the executive from legislative volatility and to enhance parliamentary stability.¹⁷⁴ Numerous countries that have transitioned from the RVNC to the CVNC have experienced a marked improvement in overall political stability. The most notable example of this positive transformation is Germany, which has achieved significantly greater stability under the CVNC model compared to the parliamentary instability witnessed during the Weimar Republic era in the 1940s.¹⁷⁵

At this juncture, it is crucial to underscore that the implementation of the CVNC varies across countries, tailored to meet specific national requirements. The CVNC framework may either adopt a permissive or restrictive approach depending on the specific needs of the countries. Key factors determining the degree of restrictiveness or permissiveness include provisions such as who is authorised to propose a CVNC, whether a specific timeframe must elapse before a vote can be initiated ('cooling off periods'), and whether a minimum interval is mandated following the failure of a previous vote before a subsequent motion can be introduced. For instance, Poland imposes a three-month waiting period alongside a minimum number of MPs needed before a new vote can be brought forward after the failure of a prior one, representing a distinctly restrictive model of the CVNC.¹⁷⁶ This is in contrast with the German Model, which is considered quite permissive due to the lack of any major restrictions on the introduction of the vote.¹⁷⁷

It is essential to recognise that the stability necessary for implementing simultaneous elections may not be adequately achieved through the German model of the CVNC. A more stringent version of the CVNC is required to further strengthen government stability and prevent the occurrence of by-elections. The Law Commission in the past has recommended in its report the implementation of time-limits for bringing any vote of no-confidence as a way to achieve parliamentary stability.¹⁷⁸ In this context, adopting a more restrictive CVNC framework, similar to the model employed in Poland, warrants consideration. The Polish model represents a mixture of the German model with the added features from the recommendations of the Law Commission Reports. This model imposes limitations on the number of no-confidence motions that can be introduced within a specified period, thereby offering greater insulation to the executive from frequent legislative challenges.¹⁷⁹ Such a degree of executive dominance becomes a critical prerequisite for minimising by-elections and ensuring the successful realisation of simultaneous elections, as envisaged by the government's proposal.

This conclusion raises potential concerns regarding its alignment with the foundational principles of the Indian Constitution. The separation of powers among the executive,

¹⁷⁴ Pierseg, *supra* note 166.

¹⁷⁵ *Id.*, 9.

¹⁷⁶ The Constitution of the Republic of Poland, 1997, Chapter VI, Art. 158.

¹⁷⁷ Philipp Harfst, *Regierungstabilität in Ostreuropa: Der Einfluss von Parlamenten und Parteien*, 11 (Science Center Berlin for Social Research, Working Paper No. FS III 01-204); Grundgesetz (The Constitution of the Federal Republic of Germany), 1949, Art. 67.

¹⁷⁸ LAW COMMISSION OF INDIA, *Reform of the Electoral Laws*, Report No. 170, 77 (May 1999).

¹⁷⁹ The Constitution of the Republic of Poland, 1997, Chapter VI, Arts. 158, 159.

legislature, and judiciary is a cornerstone of the Constitution, with the Doctrine of Checks and Balances forming an integral component of its Basic Structure.¹⁸⁰ Implementing the CVNC model could disrupt this delicate equilibrium by disproportionately empowering the executive, thereby undermining the principles of harmonious construction. The collective responsibility of the Cabinet to the Parliament as a whole will also be diminished greatly. The restriction on initiating a vote of no-confidence for a specified period may be susceptible to misuse by the executive, as it effectively grants them unchecked authority during that time. The legislature will become dysfunctional. Moreover, the constructive nature of the vote will further consolidate the Cabinet's power, thereby significantly strengthening its position.

This presents a significant dilemma: while adopting the restrictive CVNC model risks infringing upon the Basic Structure and the rights of MPs, its non-implementation may undermine the core objectives of simultaneous elections. Given the critical role of political stability in ensuring the success of simultaneous elections, this issue requires careful deliberation to reconcile the competing constitutional principles and policy goals. At this stage, looking at the fundamental changes in the Constitution required to fulfil the objectives of the simultaneous elections, the same does not seem viable in India. The subsequent part proposes an alternate model with a balanced approach in case the government decides to go ahead with these electoral changes.

D. PROPOSED MODEL

The above recommendations against the unviability of simultaneous elections have been made keeping in mind the principle of collective responsibility.¹⁸¹ Noting the crucial nature of a CVNC to ensure government stability, its absence in simultaneous elections could put the entire exercise in jeopardy, as reasoned above.

Hence, despite our argument advocating against the deployment of simultaneous elections, we endeavour to propose an alternate model should simultaneous elections be implemented. This will ensure that exercise remains faithful to its purpose through balancing the right to no-confidence against the need to ensure government durability, decreasing chances of premature dissolution while not effectively depriving legislators of the right. This, we propose, can be done through a CVNC model that is relatively more relaxed and permissive in nature.

As mentioned in our analysis of foreign jurisprudence, countries like Poland exercise several restrictions on the right of no-confidence, including on the frequency with which such motions can be moved.¹⁸² This has been argued to be a restrictive model of implementing the CVNC that places greater obligations on the opposition to oust the government, especially when it fails to prove its majority on the floor of the House.¹⁸³ Such restrictions are found to impact the opposition's ability to move such motions, thereby enhancing government stability.¹⁸⁴ However, as argued earlier, such excessive focus on stability creates executive dominance, allowing even a weak government to stay in power due to the opposition's inability to fulfil the CVNC's restrictive

¹⁸⁰ *Kesavananda Bharti v. State of Kerala*, (1973) 4 SCC 225.

¹⁸¹ The Constitution of India, 1950, Art. 75(3).

¹⁸² The Constitution of the Republic of Poland, 1997, Article 158.

¹⁸³ O. Tuttnaue & R.Y. Hazan, *Government–Opposition Relations and the Vote of No-Confidence*, Vol. 72(3), *POLITICAL STUDIES*, 984 (2024).

¹⁸⁴ Pierseg, *supra* note 166, 15.

conditions.¹⁸⁵ Such restrictiveness would only increase in countries like India that are marked by fragmentation and multiplicity in the political party system, which, as seen in countries like the Czech Republic, has contributed to such dominance.¹⁸⁶

Thus, building from countries such as Belgium and Israel, both parliamentary democracies with multi-party systems and initially a regular vote of no-confidence, could be an effective guide in implementing the CVNC system.¹⁸⁷ Though each has developed and amended their laws on CVNC over time, their model has been largely permissive in the conditions over opposition to pass a vote of no-confidence. Belgium provides for a model where only an alternative prime minister's name is proposed at the time of moving a motion of no-confidence,¹⁸⁸ whereas Israel provides for the nomination of a *formateur* who oversees the formation of a government within a stipulated time period if the present government loses the confidence of the House.¹⁸⁹ Such models, it has been argued, have contributed to bringing about government stability.¹⁹⁰ However, unlike restrictive regimes like Poland, no restrictions on the number of times such a vote can be put forth exist. Similarly, conditions on simply proposing an alternate candidate or a *formateur* allow flexibility to the opposition in government formation in subsequent stages after the vote of no-confidence is passed. Such flexibility could be used subsequently during the course of cabinet formations.

Hence, based on these arguments, the model for a vote of no-confidence we wish to propose in a simultaneous elections framework is as follows:

- i. Leave for the motion to be voted on is granted if 20% of the House is notified.
- ii. A simple majority of no-confidence, alongside the proposed name of a *formateur* that would play a pivotal role in government formation after such a simple majority is achieved, are the required conditions.
- iii. After such a majority is passed, the house will be temporarily dissolved, and the *formateur* is provided with a period of sixty days to formulate a Council of Ministers among opposition members.
- iv. Such a *formateur* may be the Prime Minister, subject to the support of the majority.
- v. During such a time period, the minority government that lost the vote of no-confidence will act as the caretaker government until the expiry of such a time period.
- vi. On the failure to formulate a Council of Ministers, in essence, in a situation where the opposition turned newly formed government is unable to decide on the division of posts within the ministerial body, or fails to decide upon a singular Prime Ministerial candidate the *formateur* is required to report the same to the President, who under his discretion, may

¹⁸⁵ *Id.*

¹⁸⁶ P. Just, *Constructive Motion of No Confidence as a Tool for Parliamentary Control of Government: The Czech Republic in a European Comparison*, REVUES DES SCIENCES POLITIQUES, 169, 171 (2015).

¹⁸⁷ Tal Lento, *Adopting the Constructive Vote of No-Confidence: Belgium and Israel in Comparative Perspective*, Vol. 3(1), INTERNATIONAL JOURNAL OF PARLIAMENTARY STUDIES (2023) ('Lento').

¹⁸⁸ The Belgian Constitution, 1994, Art. 96.

¹⁸⁹ Israel: Basic Law of 2001, 2001, Art. 28D.

¹⁹⁰ Lento, *supra* note 187, 1.

seek the formulation of a cabinet expeditiously, appoint the leader of majority party in said government as Prime Minister or order fresh elections for the unexpired period.

1. Minority Government as the Caretaker Government

In 1970, UNR Rao challenged Indira Gandhi's tenure as the leader of the caretaker government, as she had headed a minority government that caused the dissolution of the House.¹⁹¹ The judgment in this case displayed the role of an interim government that would undertake the usual activities of the State until elections were concluded. It also held that a caretaker government after the dissolution of a House need not command the collective responsibility of the House of the People.¹⁹² Hence, in the present situation, the caretaker government exercising control during the sixty-day period would be considered legitimate till the new government comes into power.

2. Exercise of Presidential Discretion

In *Samsher Singh v. State of Punjab*, the Court held that the President is generally bound by the aid and advice of the Prime Minister and the Council of Ministers, but they can exercise discretion in exceptional situations, especially in cases of a 'hung house' where such council does not command a majority.¹⁹³ Such a situation of a 'hung house' could arise if the *formateur* is unable to formulate a Council of Ministers that commands an effective majority within the stipulated time period. In such situations, it becomes imperative for the President to exercise his discretion depending on the viability of solutions. This legitimises the President's discretion if exercised in the above proposed model.

E. DEADLOCK, CVNC AND ALLIED OPTIONS

As identified before, one of the objectives of CVNC is to prevent mid-term elections. This objective can be primarily achieved by preventing the premature dissolution of the house. We have already recommended exhaustive measures to prevent such premature dissolution of the house. This part focuses on one particular scenario where premature dissolution may become necessary in case CVNC is implemented, and provides a procedure for the same.

It may so happen that the incumbent government may lose the majority, but the opposition does not agree on an alternative government. With CVNC implemented, the house will not get dissolved, and as a result, the country will be led by a minority government, which will not have enough votes to pass important legislation and bills like the budget. If the opposition refuses to co-operate and at the same time does not agree on an alternative, then a **deadlock** may occur in the house. If the deadlock continues for a prolonged period of time, then governance may come to a standstill, and a re-election might be the only viable alternative. **We recommend that, in this scenario, only a re-election be conducted.**

However, the procedure for dissolution in case of a deadlock in the House should be such that it cannot be manipulated by the government or the opposition to call for an early election by bypassing CVNC. In light of this, **we suggest the implementation of the British model of dissolution of the House, where the motion for dissolution is passed only when it is**

¹⁹¹ U.N.R. Rao v. Indira Gandhi, AIR 1971 SC 1002, ¶1.

¹⁹² *Id.*, ¶9.

¹⁹³ *Shamsher Singh v. State of Punjab*, AIR 1974 SC 2192, ¶154.

supported by a special majority of 2/3rd votes.¹⁹⁴ A special majority of the 2/3rds vote will ensure that dissolution takes place only when there is a broad cross-party consensus on its implementation.

Further, for the sake of sustaining the synchronised cycle of simultaneous elections, **we recommend that such a re-election should take place only in case an exceptional circumstance as described above occurs within the first two years of the state assembly election.** So, in case dissolution of the house is necessitated in the third or fourth year of the election cycle, the re-election should take place to bring into power a majority government to rule the state for the remaining three years.

However, we also agree with the **Scottish model** (which is also followed in Wales and Northern Ireland) wherein **if the house gets dissolved and the timing is such that the newly elected house will have less than or equal to six months' time in the current election cycle, then such re-election be treated like General election not only for the remaining time but also for the next election cycle and the newly elected house be appointed for the term consisting of the remaining term of the current cycle (which should be less than six months) and the entire term of the next cycle.**¹⁹⁵ The proposition has merit as it will save unnecessary expenditure of public funds and human resources employed during elections, which the government will have to otherwise employ in two Central elections to be held six months apart from each other. However, the Constitution of India mandates that the maximum term that a House can enjoy is five years.¹⁹⁶ The current proposed amendments under the 129th Amendment Bill do not support extension beyond five years.

Additionally, a solution based on the Romanian model can also be implemented to prevent premature dissolution of the house when the next scheduled elections of a fixed cycle are temporally proximate.¹⁹⁷ To promote the stability and the continuity of governance, **we recommend the Romanian model as an additional measure wherein the dissolution of the house in the last six months of the term will be prohibited.**

F. IMPLEMENTATION OF CVNC IN STATES

As discussed above, the implementation of the Constructive Vote of No-Confidence is crucial for the successful implementation of simultaneous elections, as it underscores political stability. The implementation of CVNC at the State level would be significantly different from its implementation at the Union level. Dissolution of a State Assembly does not suffer from the same setbacks as those seen at the Union level for the following reasons:

¹⁹⁴ The Fixed-term Parliaments Act, 2011, §2(1)(b) (The United Kingdom).

¹⁹⁵ Robert Hazell, *Is the Fixed Term Parliament Act a Dead Letter?*, POLITICAL STUDIES ASSOCIATION PARLIAMENT GROUP, April 26, 2017, available at <https://psaparliaments.org/2017/04/26/fixed-term-parliaments-act/> (Last visited on May 15, 2025).

¹⁹⁶ The Constitution of India, 1950, Art. 83(2).

¹⁹⁷ The Constitution of Romania, 1991, Art. 89. The article prohibits the dissolution of the assembly if the Presidential elections are scheduled to be held in six months.

1. The re-election of the State Assembly is relatively cheaper than the re-election of the Lok Sabha

Reports suggest that re-election of a state assembly may cost significantly lesser cost when compared to re-election to Lok Sabha. While the 2014 Lok Sabha election cost has been pegged at an INR 4000 crore mark, the election to the Bihar Assembly, the fifth largest in terms of number of seats, took less than INR 300 crore,¹⁹⁸ which does not even amount to 1/10th of the cost incurred in the Lok Sabha Election. If we look at these statistics in light of the fact of increased stability of state assemblies post the introduction of the anti-defection law,¹⁹⁹ and *S.R. Bommai v. Union of India*,²⁰⁰ it is apparent that re-election for state assemblies post-2000 is a mere possibility and hence the expenditure incurred in such one-off re-election should not be a source of financial worry for the government.

2. In case of the Dissolution of the State Assembly, an alternative source of governance exists

As observed by the Law Commission, there are no alternate forms of governance in case the Lok Sabha gets dissolved.²⁰¹ President cannot act independently without the aid and advice of the Council of Ministers, who in turn cannot function if the Lok Sabha gets dissolved.²⁰² In contrast, in the case of the dissolution of the State Assembly, President's rule can be imposed for a maximum of three years in a state under Article 356.²⁰³ Alternatively, the State can also be ruled by the Centre directly by transferring the legislative functions of the state assembly to the Rajya Sabha under Article 249.²⁰⁴

Hence, in light of the above, we are of the opinion that complete extension of the Constructive No-Confidence procedure is not required in the case of states. Consequently, we are also of the opinion that Anti-Defection laws should not be relaxed in the case of states, as a general rule. It will be permitted only in case of the following circumstances, delineated below.

It is also necessary to refer to the Sarkaria and Puncchi Commissions' recommendations with respect to the floor test:

“The Sarkaria Commission recommended that, if the Chief Minister neglects or refuses to summon the Assembly for holding a Floor Test, the Governor should summon the Assembly for the purpose. As regards proroguing a House of Legislature, the Governor should normally act on the advice of the Chief Minister.

¹⁹⁸ Vithika Salomi, *Bihar 2015 Polls Cost the Exchequer Rs 300 Cr*, TIMES OF INDIA, November 7, 2015, available on <https://timesofindia.indiatimes.com/elections/bihar-elections-2015/news/bihar-polls-cost-state-exchequer-rs-300-crore/articleshow/49694866.cms> (Last visited on May 15, 2025).

¹⁹⁹ STANDING COMMITTEE ON PERSONNEL, PUBLIC GRIEVANCES, LAW AND JUSTICE, Sixteenth Lok Sabha, *Report on Feasibility of Holding Simultaneous Elections to the House of People (Lok Sabha) and State Legislative Assemblies*, Seventy-Ninth Report, ¶16.2 (December 15, 2015), available at https://legalliaffairs.gov.in/sites/default/files/simultaneous_elections/79th_Report.pdf (Last visited on February 15, 2025) ('Lok Sabha Report').

²⁰⁰ *S.R. Bommai v. Union of India*, AIR 1994 SC 1918.

²⁰¹ LAW COMMISSION OF INDIA, *Draft Report: Simultaneous Elections*, August 30, 2018, ¶6.

²⁰² *U.N.R. Rao v. Smt. Indira Gandhi*, AIR 1971 SC 1002, ¶12.

²⁰³ The Constitution of India, 1950, Art. 356.

²⁰⁴ *Id.*, Art. 249.

But where the latter advises prorogation when a notice of no-confidence motion against the Ministry is pending, the Governor should not straightaway accept the advice. If he finds that the no-confidence motion represents a legitimate challenge from the Opposition, he should advise the Chief Minister to postpone prorogation and face the motion. As far as dissolution of the House is concerned, the Governor is bound by the decision taken by the Chief Minister who has majority. However, if the advice is rendered by a Chief Minister who doesn't have majority, then the Governor can try to see if an alternate government can be formed and only if that isn't possible, should the house be dissolved". (emphasis added)²⁰⁵

Thus, exploring all possible alternatives before the dissolution of the State legislative assembly is constitutionally and legally mandated. Accordingly, to insulate the synchronised cycle of the simultaneous elections, we propose the following procedure to be followed in case of the dissolution of the state assembly:

1. If from the proposed date of dissolution, more than 1.5 years but less than three years of time is left for the next scheduled election, then regular re-elections will be conducted for the appointment of the state assembly for the remaining term.
2. If from the proposed date of the dissolution, more than three years of time is left for the next scheduled elections, only then should the procedure of Constructive Vote of No-Confidence be employed, and the Anti-Defection Law relaxed.
3. Alternatively, President's rule can also be imposed if the period left before the end of the full term of the state assembly is 1.5 years or less.

Furthermore, we also agree with the view taken by the ECI and the Parliamentary Committee that the state governments need to be stabilised for the program to succeed. Apart from No-Confidence votes, the state assembly can also be dissolved by the centre. We are of the view that in order to provide stable governance to the citizenry of the state, the authority of the Centre to dislodge a democratically elected State government needs to be reasonably curtailed. In this regard, we propose the following recommendations:

1. The grounds for dissolution of the state assembly as prescribed by the Sarkaria Commission²⁰⁶ and endorsed by the Bommai judgment²⁰⁷ should be codified into the Constitution by way of suitable amendments in Article 356.
2. Article 356 should also be suitably amended to make it obligatory for the Central government/governor to provide the grounds and reasons based on which the Central government/governor prescribes the President's Rule in writing, so that the validity of such recommendation can easily and expeditiously be reviewed by the judiciary.

²⁰⁵ COMMISSION ON CENTRE-STATE RELATIONS, *Constitutional Governance and the Management of Centre-State Relations* (March 2010), ¶4.5.04 ('Punchhi Commission').

²⁰⁶ Lok Sabha Report, *supra* note 200, ¶¶7, 14.

²⁰⁷ COMMISSION ON CENTRE-STATE RELATIONS, *Evolution of Centre-State Relations in India*, ¶6.7.04 (June 1983) ('Sarkaria Commission'). The grounds for dissolution laid out by Sarkaria Commission were as follows: (a) Political crises; (b) Internal subversion; (c) Physical breakdown; (d) Non-compliance with constitutional directions of the Union Executive.

V. POSSIBLE ROADBLOCKS POSITED BY ANTI-DEFECTION LAW TO THE CONDUCT OF SIMULTANEOUS ELECTIONS

A. ISSUES AND ANALYSIS

The concept of simultaneous elections, viewed simply, involves the scheduling of elections at all three levels (as suggested in our model, local self-governments should also go to the polls simultaneously with the Parliament and state legislatures) of governance in India in the interest of time and resources. The sustainability of this model is evidently in the **maintenance of the scheduled timelines** for holding simultaneous elections after the completion of the term of each of these bodies. Since Parliament and state legislatures both have a constitutionally mandated term of five years, following the premature dissolution of state legislatures which will potentially take place in the initial implementation of simultaneous elections, there is unlikely to be any substantial hurdle in putting them to vote after the completion of their respective terms of five years each when the next scheduled simultaneous takes place. Now, while the preservation of the term of the Parliament and state legislatures would be in the interest of the process of simultaneous elections, **the possibility of loss of confidence by the central government or state government, as the case may be, in the respective House looms large** over this otherwise ideal situation.

1. No-confidence motions and the prospect of a constructive no-confidence vote

Rule 198 of the Rules of Procedure and Conduct of Business on Lok Sabha provides for the passing of a motion of no-confidence against the incumbent government.²⁰⁸ Similar provisions exist in the Rules framed by the state legislatures for the conduct of their business in order to enable Members of the Legislative Assembly to table such a motion in their state legislature. While the procedural requirements in relation to the introduction, deliberation and voting on a no-confidence motion are extensive in nature, **what a no-confidence motion essentially seeks to do is to gauge the confidence that the House has in the incumbent government**. As an instrument, the no-confidence motion plays an essential role in ensuring that the government in power enjoys the support of the majority of the Parliament or the state legislatures at all points in time.²⁰⁹

The no-confidence motion can take place in the **form of either a confidence vote or a no-confidence vote**, with both having the same result from a practical point of view.²¹⁰ A confidence vote, as the name suggests, involves seeking to understand the extent of support that is garnered by the incumbent government in its favour.²¹¹ On the other hand, a no-confidence vote seeks to estimate the extent to which the government has lost favour of the members of the respective House and to potentially dethrone the government based on the expression of apparent loss in support in the House which is viewed to be essential to their occupying the seat of

²⁰⁸ Rules of Procedure and Conduct of Business in Lok Sabha, 2014, R. 198.

²⁰⁹ M.R. Madhavan, *Confidence in the House*, THE HINDU, April 4, 2018, available at <https://www.thehindu.com/opinion/op-ed/confidence-in-the-house/article23437310.ece> (Last visited on May 15, 2025) ('Madhavan').

²¹⁰ THE QUINT, *Explained: What is a No-Confidence Motion?*, July 26, 2023, available at <https://www.thequint.com/explainers/explainers-all-you-need-to-know-about-a-no-confidence-motion> (Last visited on May 15, 2025).

²¹¹ Madhavan, *supra* note 209.

governance.²¹² In India, no-confidence motions have been selected for application in the legislature. Regardless of the nature of the proceedings involved, both types of votes bear similar consequences, such that a loss of the incumbent government in a confidence vote, as well as an acceptance of a no-confidence vote, results in the resignation of the government.²¹³

Unless another political party, either by itself or in coalition with other political parties is capable of constituting a majority in the relevant House of legislature, the Parliament or the state assemblies, as the case may be, is required to be dissolved and re-election has to be organised in view of the forming of a new government which enjoys the support of the majority of the Parliament or state legislature as the case may be.²¹⁴ While the loss of confidence midway through the term may be potentially prevented on account of the formation of a new government by existing parties and factions within the respective House, however, **the potential of premature dissolution of the Parliament or state assembly prior to the completion of their full term may pose a serious problem** to the feasibility of implementing simultaneous elections due to the staggering of the electoral cycle which shall result from such dissolution.²¹⁵

As discussed in Part III of this Report,²¹⁶ constitutional mechanisms like Presidential Rule exist to prevent the mandatory re-election of a state assembly if it's dissolved before scheduled simultaneous elections. Part III also outlines other methods that can be adopted to prevent the dissolution of state assemblies from negatively affecting the electoral cycle designed for simultaneous elections. However, this is not the case for the Parliament, where a loss of confidence in the government and the lack of a viable replacement will necessitate a re-election.

In order to avoid the staggering of elections in light of the passing of no-confidence motions, the Law Commission's **suggestion of a constructive no-confidence motion is appreciable**. As per this recommendation, the loss of a no-confidence motion must result in the resignation of the government only when a confidence motion favouring another alternative government is also passed.²¹⁷ The HLC Report reflects this position. This reinforces the doctrine of continued Executive responsibility and accountability to the Legislature and necessitates no constitutional amendment, as it can be effectuated through an amendment to the Rules of Procedure of the Houses governing the admissibility of no-confidence motions.²¹⁸ The HLC provides a framework for the implementation of this constructive no-confidence motion, borrowing the model from Article 67 of the Basic Law for the Federal Republic of Germany. According to this framework, these suggestions would be particularly useful in a situation when no party or pre-election alliance of parties secures a clear majority of seats in the House of the People or in any of the State Assemblies and the largest single party is unable to promise a stable government, the President or Governor as the case may be, should ask the House to elect its leader

²¹² Kenneth J. Cooper, *Indian Government Falls After 13 Days in Power*, THE WASHINGTON POST, May 29, 1996, available at <https://www.washingtonpost.com/archive/politics/1996/05/29/indian-government-falls-after-13-days-in-power/10f84c0d-5122-4866-ba75-4fc2bf505438/> (Last visited May 15, 2025).

²¹³ 2017 NITI Aayog Report, *supra* note 1.

²¹⁴ Punchhi Commission Report, *supra* note 205.

²¹⁵ *Id.*

²¹⁶ See *supra* Part III on “Do Simultaneous Elections Lead to Voter Bias for National Parties? Evaluating Evidence and Dispelling Misconceptions”.

²¹⁷ Sai Manish, *One nation, One election: Why Modi Govt Wants to go for Simultaneous Polls*, BUSINESS STANDARD, January 25, 2018, available at https://www.business-standard.com/article/current-affairs/one-nation-one-election-why-modi-govt-wants-to-go-for-simultaneous-polls-118012500184_1.html (Last visited on February 15, 2025).

²¹⁸ HLC Report, *supra* note 2, ¶55.

just as it elects its Speaker The person so elected may be appointed the Prime Minister/Chief Minister. This can be done by the President or Governor sending a message to the House under the existing Articles 86(2) or 175(2), respectively. When the simple question is that of determining the majority, the safest and simplest course would be to hold an election on the floor of the House. It would also not be necessary then to seek a vote of confidence, as, in effect, it would have been obtained in advance of appointment through the process of election by the House itself. This would require neither an amendment of the Constitution nor of any law.

2. Anti-Defection law as an impediment to simultaneous elections

This would be necessary in light of the fact that a situation of a hung parliament that may result from the loss of confidence of the incumbent government may potentially be salvageable if members from different political parties are allowed to come together for the purpose of forming the new government. **The anti-defection law, as it stands, poses an impediment to the formation of an alternate government since it seeks to disqualify from membership any MP or MLA who acts against the party whip.**²¹⁹ The potential ideological difference between parties and the political desire for majority influence in the legislature may potentially prevent larger political parties from allowing their members to support alternate governments in a situation of a hung parliament.²²⁰ In light of the existing anti-defection law and the potential disqualification which will emanate from an effort for individual MPs or MLAs belonging to political parties, the possibility of forming a new government in pursuance of the constructive vote of no-confidence will become minimal and hence push the legislature towards re-election.

In reflection of the issues arising from the anti-defection law in India, it is suggested that the Law Commission's recommendation regarding the **carving out of an exception in the law** for the purpose of allowing MPs to defy the party whip in exceptional circumstances of no-confidence motion in order to pass a confidence motion in favor of an alternate government potentially formed by factions of different political parties which together command a majority in the legislature. While the potential of dissolution of Parliament based on loss of confidence is quite remote based on the experience of recent decades, the existence of a mechanism to deal with such an exceptional circumstance would nevertheless be beneficial.

Furthermore, as discussed in Part IV.E of this paper, no-confidence motion in practice has proved to be effective in select circumstances only and has in fact proved to be a tool of entrenching the Executive's hegemony. The dangers of CVNC have been empirically and normatively demonstrated to be largely exaggerated. Thus, the relaxation of the Anti-Defection Law, which is absolutely necessary to operationalise CVNC, can be permitted wholly in the Lok Sabha, without the deleterious effects cited by popular criticisms. For states, the riders mentioned in Part IV.F of this paper will apply, because the Constitution envisages certain alternatives for state legislative assemblies that are not available to the Lok Sabha in case of imminent dissolution.

The HLC, while not addressing the issue of carving out such an exception, has

²¹⁹ See Constitution of India, 1950, Tenth Schedule, Cl. 2(b).

²²⁰ Jenna Narayan, 'Defect-Shun': Understanding Schedule X to the Constitution of India, Vol. 3(1), INDIA LAW JOURNAL, available at http://www.indialawjournal.org/archives/volume3/issue_1/article_by_jenna.html (Last visited on May 15, 2025).

suggested that in the event of defection, no-confidence motion, and so forth, fresh elections may be held to constitute a new House.²²¹ In the case of fresh elections for Parliament, the tenure of such elected persons shall be for the unexpired term of the immediately preceding House, with the expiration of said term operating as a means of dissolution. For State Legislative elections, the tenure would continue till the end of the term of Parliament.

VI. NORMATIVE CONDUCT OF SIMULTANEOUS ELECTIONS WITH CONSTITUTIONAL PRINCIPLES AND THE BASIC STRUCTURE DOCTRINE

A. THE CONSTITUENT ASSEMBLY AND ‘LEGISLATIVE INTENT’ BEHIND SIMULTANEOUS ELECTIONS

The HLC Report argues that the first four general elections being conducted for the Lok Sabha and state assemblies simultaneously are a testament to the fact that simultaneous elections are envisaged within the scheme of the constitution.

This argument, however, suffers from two major difficulties. *First*, it conflates correlation with causation. Elections taking place simultaneously do not necessarily imply larger constitutional permissiveness of structural changes. While it is a ‘coincidence’ that state assemblies align with the Lok Sabha, of course, do not face any obstacles from Constitutional provisions, it is another thing entirely to bring in place machinery, by an amendment, that seeks to ‘mechanically enforce’ such simultaneity. Indeed, it is not contested that there have been thirty-one instances of simultaneous elections of at least some States since independence till 2018, as analysed in the Chhokhar-Kumar Study.²²²

Second, the Constituent Assembly discussion on draft Article 289 of the Constitution, which corresponds to the present Article 324, itself militates against the HLC’s conclusion. Shibban Lal Saxena, arguing for a permanent Election Commission, and not just the Chief Election Commissioner, argued that it was likely that the Election Commission would have adequate work since it was “quite possible that elections to the various legislatures in the provinces and to the Centre will not all be concurrent”.²²³ He further stated that owing to the passing of no-confidence motions and subsequent dissolutions, all elections “will not synchronise”.²²⁴ He added that the Indian electoral system is not akin to that of the United States and does not provide for a fixed four-year cycle”, and resultantly, “elections will probably be almost always going on in some province or the other”.²²⁵

In fact, this was indeed the case beginning with the elections of 1951–52, 1957, 1962 and 1967. As a result of no-confidence motions and premature dissolutions, the election cycles of the States and the Union become ‘desynchronised’.²²⁶ The net effect of premature dissolutions at both Centre and State level has been such that at present, the Lok Sabha elections

²²¹ HLC Report, *supra* note 2.

²²² See *supra* Part III on “Do Simultaneous Elections Lead to Voter Bias for National Parties? Evaluating Evidence and Dispelling Misconceptions”.

²²³ CONSTITUENT ASSEMBLY DEBATES, Book No. 8, June 15, 1949, *speech by SHIBBAN LAL SAKSENA*, 909 (2014).

²²⁴ *Id.*

²²⁵ *Id.*

²²⁶ See Statement of Objects and Reasons, The Constitution (One Hundred and Twenty Ninth Amendment) Bill, Bill No. CCLXXV of 2024, 2024.

coincide with only five State Assembly elections, viz, Andhra Pradesh, Arunachal Pradesh, Odisha and Sikkim.²²⁷

B. THE ‘FLEXIBILITY’ UNDER ARTICLE 172

The proposed amendments in the form of Article 82A and the introduction of the concept of ‘mid-term’ elections rest on the premise that the Constitution itself provides flexibility in the tenure of Legislative Assemblies. Article 172 prescribes this tenure to be five years, “unless sooner dissolved”. This has been cited by the HLC as evidence that the founding fathers drafted Article 172 in a way only to create a ‘maximum’ term of five years.²²⁸

On the question of premature dissolution, the HLC cites the instance of seven legislative assemblies,²²⁹ having been dissolved before the end of their term, such that simultaneous elections could be conducted in 1957 along with the Second Lok Sabha elections. The reliance on this instance is unjustified for two reasons. *First*, as explained above, it still does not demonstrate the permissibility of permanently creating a mechanism of a “mid-term” election, that essentially ‘forces’ a simultaneous election every time there is a premature dissolution of a state assembly by way of defeat of a fiscal bill or passing of a no-confidence motion. *Second*, the HLC’s reliance on this instance of the 1957 election ignores the context in which premature dissolution took place. All seven assemblies were dissolved, even if before the expiry of their term, merely two to three months before the true expiry of their term.²³⁰ Effectively, the terms of the assemblies had come to an end with the Lok Sabha itself in 1957 and is not a concrete example of an attempt to make state and national elections simultaneous. *Further*, it ignores the political context in which the 1957 elections, i.e., in the aftermath of the State Reorganisation Act, 1957.²³¹ Importantly, the HLC Report itself recognises that the dissolution of these seven assemblies in 1957 took place via “a consensual approach in consultation with all political parties, the Central Government and the State Governments”.²³² Therefore, the historical precedents cited by the HLC Report must be viewed with scepticism.

From a principled point of view, it is now pertinent to test the HLC’s argument on ‘flexibility’ accorded by the current mechanism of Article 172. While it is true that the Constitution does envisage a term for legislative assemblies of less than five years, the question is then of the nature of the tenure itself. It may be argued that there is a limited set of circumstances in which premature dissolution may take place. Such circumstances include the proclamation of the

²²⁷ ELECTION COMMISSION OF INDIA, *Assembly Elections*, 2024, available at <https://www.eci.gov.in/assembly-elections-new> (Last visited on May 14, 2025).

²²⁸ HLC Report, *supra* note 2, Ch. VI, ¶¶4, 5.

²²⁹ The seven assemblies dissolved prematurely consisted of the States of Bihar, Mysore, Madras, Punjab, Uttar Pradesh, West Bengal and Bombay.

²³⁰ For instance, the normal expiry of the term of the Mysore Assembly was June 18, 1957, however, it was dissolved on April 1, 1957, i.e., a mere two months prior, *see generally* ELECTION COMMISSION OF INDIA, *Report on the Second General Elections in India, 1957: Volume I*, 109.

²³¹ The State Assembly elections to Andhra Pradesh were conducted in 1955. There was no dissolution of the Andhra Pradesh Assembly in 1957. The elections in 1957 to the Andhra Assembly were conducted only for the then newly added region of Telangana, *see* ELECTION COMMISSION OF INDIA, *Report on the Second General Elections in India, 1957: Volume I*, 18.

²³² HLC Report, *supra* note 2, Ch. I, ¶5; The ECI itself notes that an All-India Political Parties conference was called in New Delhi to discuss the calendar for the elections in 1957, *see* ELECTION COMMISSION OF INDIA, *Report on the Second General Elections in India, 1957: Volume I*, 110.

President's rule under Article 356,²³³ or the decision of the Council of Ministers itself to dissolve the assembly.²³⁴

Arguably, therefore, “unless sooner dissolved”, in Article 172,²³⁵ refer to situations where such a ‘periodic’ mandate of the people cannot be effectively carried out.²³⁶ Further, such periodicity likely refers to more than merely conducting an electoral exercise after a set period of time. The SC in *Mohinder Singh Gill v. Chief Election Commissioner* described democracy as a ‘continual participative operation’, and not merely a periodic exercise.²³⁷ This implies that elections are not a mechanical administrative exercise, which can be rescheduled for convenience, but periodic mandates that must be respected.

This is further underscored by the idea that every vote possesses an inherent value.²³⁸ Particularly, the very notion of ‘one person, one vote’ demands that there be parity in the value of votes of voters — an idea recognised by the Supreme Court in *R.C. Poudyal v. Union of India* (‘R.C. Poudyal’).²³⁹ Granted that these observations were made in the context of delimitation, the fundamental idea is of great import, especially since it was acknowledged as an ‘ideal’ of representative democracy at large.²⁴⁰

This is not to say that there is a ‘right’ to a five-year term. In fact, the phrase “unless sooner dissolved” was considered by the Allahabad HC in *Udai Narain Sinha v. State of Uttar Pradesh*, where it held that an Assembly or MLAs do not have a ‘constitutional right’ to insist on a term of five years.²⁴¹ However, in creating an enforcement mechanism to shorten assembly tenures by virtue of mid-term elections artificially, the value of votes of the voters in such ‘affected states’ undoubtedly falls. This is since their elected representatives remain in power only as long as the tenure of the Lok Sabha subsists. This, compared to a State where no such mid-term elections were required, the voters’ vote was effectively able to guarantee an ordinary five-year term for a government. The impact of such a construct on policy and the ability of the State government to effectively govern, since in the event of a premature dissolution, the newly elected State Assembly will only be able to hold a tenure for the remainder of the Lok Sabha’s term. This, in fact, would create a situation of a ‘backdoor policy paralysis’, of which little explanation is proffered by the proponents of the Bill.

It is pertinent to re-emphasise that the concern is not with respect to the idea of a mid-term election itself. A bye-election can hardly be characterised as upsetting the voter-value parity. The issue is with the idea of forcefully aligning State elections to those of the Centre.

Naturally, it may be contended that such encroachment is not necessarily a concern in a federal polity that possesses a ‘unitary bias’, such as India. Given the quasi-federal structure

²³³ The Constitution of India, 1950, Art. 356.

²³⁴ *Id.*, Art. 174(2)(b).

²³⁵ The Constitution of India, 1950, Art. 172.

²³⁶ This is acknowledged by the HLC Report as well, see HLC Report, *supra* note 2, Ch. VI, ¶4 (“The synchronicity in the elections is disturbed when the elected houses are unable to fulfil the mandate to govern for five years before being dissolved.”).

²³⁷ *Mohinder Singh Gill v. Chief Election Commissioner*, (1978) 1 SCC 405, ¶23.

²³⁸ *Shailesh Manubhai Parmar v. Election Commission of India*, (2018) 9 SCC 100, ¶27.

²³⁹ *R. C. Poudyal v. Union of India*, 1994 Supp (1) SCC 324, ¶182.

²⁴⁰ *Id.*; *Ambedkarite Party of India v. State of Maharashtra*, 2016 SCC OnLine Bom 10723, ¶13; *Kiran Kadam v. State of Maharashtra*, 2018 SCC OnLine Bom 3795, ¶26.

²⁴¹ *Udai Narain Sinha v. State of Uttar Pradesh*, 1986 SCC OnLine All 54, ¶5.

of the Indian polity, this action for greater administrative convenience of elections is sensible.²⁴² However, notwithstanding certain ‘centralising features’ in the Indian Constitution, the States and the Union have always been intended as “co-equals”, functioning in their assigned domains.²⁴³ It is useful to refer to Dr. B.R. Ambedkar’s statements at the Constituent Assembly, in response to a question as to the ‘centralising tendency’ of the Constitution, as also quoted by the SC in *NCT v. Union of India*:

“The States, under our Constitution, are in no way dependent upon the Centre for their legislative or executive authority. The Centre and the States are co-equal in this matter... It may be that the Constitution assigns to the Centre too large a field for the operation of its legislative and executive authority than is to be found in any other Federal Constitution. It may be that the residuary powers are given to the Centre and not to the States. But these features do not form the essence of federalism. The chief mark of federalism, as I said lies in the partition of the legislative and executive authority between the Centre and the Units by the Constitution. This is the principle embodied in our Constitution”. (emphasis added)²⁴⁴

If such spirit were indeed true, then it follows that the term of a State Legislature, under Article 172, cannot be curtailed at the whims and fancies of the Centre. Indeed, this is also the premise by which the invocation of Article 356 is made. Therefore, the construction of the ‘term’ of the Legislative Assembly must be interpreted such that a truncation of the term can be permitted only when there are ‘legitimate’ reasons to do so. In other words, there is an expectation of ‘legitimacy’ in any act of dissolution prior to the expiry of the five-year tenure of the Legislative Assembly under Article 172.

In this context, a reference to Article 356 is appropriate. In *S.R. Bommai v. Union of India*, while holding that federalism is part of the basic structure,²⁴⁵ the Court also held that States are constitutionally recognised units, and not mere ‘convenient administrative divisions’.²⁴⁶ The powers under Article 356 must be exercised “properly and legitimately”,²⁴⁷ which is backed by the constitutional constraint to obtain parliamentary approval.²⁴⁸ *S.R. Bommai* goes to great lengths to observe the constitutional protections to confine the otherwise unbridled powers under Article 356(1).²⁴⁹ It draws from the fundamental idea of democratic governance itself, and maintains that any interference with democratic self-governance must be both “rare and

²⁴² See Adita Sinha, *11 Reasons Simultaneous Elections Aren't 'Anti-Constitution'*, NDTV, December 18, 2024, available at <https://www.ndtv.com/opinion/11-reasons-simultaneous-elections-arent-anti-constitution-7276861> (Last visited on March 15, 2025).

²⁴³ See *NCT v. Union of India*, ¶¶69–71 (per Chandrachud, J.); *S.R. Bommai v. Union of India*, (1994) 3 SCC 1 (per Reddy, J.) The fact that under the scheme of our Constitution, greater power is conferred upon the Centre vis-à-vis the States does not mean that States are mere appendages of the Centre. Within the sphere allotted to them, States are supreme. The Centre cannot tamper with their powers. More particularly, the courts should not adopt an approach, an interpretation, which has the effect of or tends to have the effect of whittling down the powers reserved to the States.

²⁴⁴ CONSTITUENT ASSEMBLY DEBATES, Book No. 11, November 25, 1949, *speech by B.R. AMBEDKAR*, 976 (2014).

²⁴⁵ *S.R. Bommai v. Union of India*, 1994 (3) SCC 1, ¶95.

²⁴⁶ *Id.*, ¶96.

²⁴⁷ *Id.*, ¶227.

²⁴⁸ *Id.*

²⁴⁹ *Id.*, ¶75.

demonstrably compelling”.²⁵⁰ Interference with self-governance effectively prevents people from realising their democratic aspirations.²⁵¹

This conclusion is also supported by the application of ‘constitutional morality’. It is settled from SC’s jurisprudence that any question of constitutional interpretation must flow from constitutional morality.²⁵² Aparna Chandra describes this phenomenon as including the most foundational and integral ideas of the Constitution.²⁵³ From the analysis above, it is intuitive that an assessment of Article 172 from the lens of constitutional morality would also dictate that any reduction in the term of the State Assembly only takes place for cogent and legitimate reasons.

The direct corollary to the above argument is that a mechanical construct ‘enforcing’ periodic simultaneous election would offend federal polity and free periodic elections and impact self-governance, at least in principle. Therefore, the question now becomes whether purported reasons for such premature dissolution, effected by a “mid-term election”, qualify as a ‘legitimate’ reason. The Statement of Objects and Reasons of the 129th Amendment Bill lays down the reasons as reducing policy paralysis from the imposition of the MCC across States, reduction in overall election expenditure, and minimising disruption of public services.²⁵⁴ This is also evident from the HLC Report,²⁵⁵ as well as that of the Law Commission.²⁵⁶ The true merits of such assertions have been discussed above.²⁵⁷

Prima facie, it is doubtful whether temporary policy paralysis (if it all exists) warrants the changing of an entire constitutional paradigm of the natural flow of State elections. The consequence of such a shift clearly places State democratic expressions as subordinate to the national election cycle. Further, a reason of ‘convenience’, whether economic, administrative or otherwise, has not been framed as a factor in either of S.R. Bommai, R.C. Poudyal or Mohinder Singh Gill. From a simple exercise of evaluating impacts, the cited reasons fail to justify the constitutional shift proposed. It remains to be seen whether courts view administrative reasons as legitimate reasons behind dissolution. However, based on the analysis above, the mechanism introduced by the 129th Amendment Bill disrupts autonomy and paves the way for over-centralisation.

However, it must be noted that the proposed Article 82A, is being brought in by a constitutional amendment in pursuance of an exercise of the powers under Article 328 of the Constitution. A constitutional amendment is challenged on the anvil of the the basic steucture of the constitution.²⁵⁸ While the amendment may indeed disrupt the nuanced scheme of state elections the Constitution envisages, it will not be possible to challenge its legality in the absence of meeting

²⁵⁰ *Id.*, ¶102.

²⁵¹ *Id.*, ¶103.

²⁵² *Government of NCT of Delhi v. Union of India*, (2018) 8 SCC 501; *Indian Young Lawyers Assn. v. State of Kerala*, (2019) 11 SCC 1 (per Indu Malhotra, J. dissenting).

²⁵³ Aparna Chandra, *A Precious Heritage? The Construction of Constitutional Identity by Indian Courts*, Vol. 1(1), COMP. CONST. ST., 154 (2023).

²⁵⁴ Statement of Objects and Reasons, The Constitution (One Hundred and Twenty Ninth Amendment) Bill, Bill No. CCLXXV of 2024, 2024.

²⁵⁵ HLC Report, *supra* note 2, Ch. I, ¶13.

²⁵⁶ Law Commission of India, *Draft Report: Simultaneous Elections*, 26, ¶4.6 (August 2018).

²⁵⁷ See *supra* Part II on “Evaluating the Justifications for Simultaneous Elections” and Part III on “Do Simultaneous Elections Lead to Voter Bias for National Parties? Evaluating Evidence and Dispelling Misconceptions”.

²⁵⁸ *Ashok Kumar Thakur v. Union of India*, (2008) 6 SCC 1, ¶64.

either of the two requirements laid out above. In other words, unless it is demonstrated that either the schema under Article 172 is part of a larger basic structure of the Constitution or that the institution of the mechanism of simultaneous elections challenges a Part III right, a challenge would not succeed. As the following section demonstrates, this is a more challenging prospect.

C. THE BASIC STRUCTURE

The constitutionality of simultaneous elections has been called to question by critics who state that it potentially infringes on constitutional principles which form part of the basic structure doctrine. The decision in the case of *Kesavananda Bharati v. State of Kerala* laid down that while the rest of the Constitution was amenable to change through amendment,²⁵⁹ certain aspects which formed part of the basic structure of the Constitution could not be altered. Thereafter, all constitutional amendments which have been found to be violative of the ‘basic structure doctrine’ have been struck down as unconstitutional and hence void.

A perusal of case law in relation to the basic structure sets out a range of tests which are applicable while determining the possible violation of the basic structure of the Indian Constitution by a constitutional alteration through amendment.²⁶⁰ It is important to judge the proposed amendment in favour of introducing simultaneous elections against this threshold in order to gauge its sustainability in light of the constitutional provisions. The judgment in the case of *I.R. Coelho v. State of Tamil Nadu* laid down the currently applicable tests of judging constitutional amendments against the threshold of the basic structure of the Constitution,²⁶¹ namely the ‘rights’ test and the ‘impact’ test, and thereby requires a reference in this regard.

The ‘rights’ test focuses on the protection of vital constitutional provisions which are so key to its existence that the absence or negation of such provisions would itself lead to the destruction of the constitutional order. The ‘impact’ test, on the other hand, requires the Court to make a balanced assessment as to the content of law, the nature of rights it seeks to introduce, the sphere of abridgement of other legal rights including specifically Fundamental Rights in order to determine whether the constitutional amendment in question substantially and effectively contravenes the core tenets of the Indian Constitution.²⁶² As per judicial interpretation, federalism is part of the ‘basic structure’ of the Constitution.²⁶³ However, the mere possibility of federalism being altered in the Indian context based on exaggerated claims of critics is inadequate to sustain a case of holding the proposition potentially unconstitutional. For such a case to be sustained, it is important that such a determination results from the application of the ‘rights’ and ‘impact’ tests as prescribed by the Supreme Court of India.

It is to be noted that the introduction of simultaneous elections would involve majorly amending the Constitution with reference to Articles 83 (dealing with the duration of Houses of Parliament), 85 (dealing with the dissolution of Lok Sabha by the President), 172 (dealing with the duration of state legislatures), 174 (dealing with the dissolution of state assemblies) and 356 (dealing with the imposition of President’s Rule on a state). It is argued that

²⁵⁹ *Kesavananda Bharati v. State of Kerala*, (1973) 4 SCC 225.

²⁶⁰ Aratrika Choudhuri & Shivani Kabra, *Determining the Constitutionality of Constitutional Amendments in India, Pakistan and Bangladesh: A Comparative Analysis*, Vol. 10, NUJS L. REV., 3 (2017).

²⁶¹ *I.R. Coelho v. State of T.N.*, (2007) 2 SCC 1 (‘Coelho’).

²⁶² *Id.*, ¶152.

²⁶³ *Kuldip Nayar v. Union of India*, (2006) 7 SCC 1.

while the provisions relating to the length of term of Parliament and state legislature, Articles 83 and 172, are important from the point of view of the maintenance of stable governance, they are not so intrinsic to the Constitution as it stands as to fail the standard set by the applicable ‘rights’ test. This means that while it is true, it is absolutely necessary. The recognition of this understanding is evident in the presence of Articles 85, 174 and 356, which deal with the dissolution of the Parliament and the state legislature. While Articles 85 and 174 provide for the dissolution of the Parliament and state legislature from time to time, Article 356 provides for the dissolution of the house in a situation of the breakdown of the constitutional machinery wherein the President is allowed to assume the powers of the state legislature himself thereby rendering the elected state legislature defunct. It is argued that while the introduction of the policy of simultaneous elections will involve alteration of the aforementioned constitutional provisions, the amendment need not be envisioned as such that will necessarily negate the core of these provisions. Nonetheless, if based on policy prerogatives, the Parliament and state legislatures together determine the need for substantially altering these constitutional provisions, it is suggested that these provisions do not form such an intrinsic part of the Constitution that the alteration in their form and substance shall lead to the destruction of the constitutional order itself, which is the standard which is provided by the ‘rights’ test.²⁶⁴

Similarly, in respect of the ‘impact’ test, it is argued that the amendment sought to be introduced in order to facilitate the conducting of simultaneous elections shall not substantially and effectively abrogate key tenets of the Indian Constitution.²⁶⁵ As required under the test, it is of utmost importance to assess the content of the law, the nature of rights sought to be introduced and the nature of rights which are either possibly impacted or eroded as a consequence of the amendment.²⁶⁶ As discussed in Part I, simultaneous elections were envisaged as the norm under the constitutional framework, with staggered elections being provided only as exceptions to the rule initially.

In today’s India, where administrative requirements have resulted in the shift to staggered elections at the Parliamentary and state levels, it is argued that the content of the law sought to be introduced through the proposed amendment is not entirely unknown in Indian constitutional history. Further, it is necessary to note that the model sought to be reintroduced, albeit with modifications in consonance with the changing times, has witnessed successful implementation from 1951 to 1967, thereby indicating that its introduction is not altogether in alteration of the framework envisioned by the drafters of the Constitution of India. Moreover, as discussed in the previous paragraph, the nature of impact that may potentially occur on provisions of the Constitution is likely to be facial at best, given the nature of changes that are required to be made in the interest of simultaneous elections and not be of such magnanimity to impact the core principles which are embodied by the Constitution. It is argued that an effort for reversion to the older model of simultaneous elections would therefore not abridge constitutional tenets in a manner substantial enough to render the proposed amendment violative of the basic structure of the Constitution.

Nevertheless, in light of the alteration in the electoral structure which is sought to be introduced through the system of simultaneous elections, which shall impact states to an equivalent extent as the Centre, it is argued that ratification of at least half of the states should be

²⁶⁴ Coelho, *supra* note 261, ¶¶140–142.

²⁶⁵ Coelho, *supra* note 261, ¶¶56, 106, 148, 151.

²⁶⁶ *Id.*

mandated prior to the passing of the Amendment Bill as recommended by the Law Commission in its draft working paper.²⁶⁷ However, the High Level Committee Report has rejected the need for the same, in light of Entry 72 of List I in the Seventh Schedule, which provides Parliament with the power to make laws with regard to elections to Parliament and State legislatures.²⁶⁸ The Report noted that such ratification would only be required in limited circumstances, for instance, enabling Single Electoral Roll and Single Elector's Photo Identity Card, prepared by the Election Commission of India in consultation with the State Election Commission(s).²⁶⁹ Nonetheless, while procedural and optional in nature (as acknowledged by the Law Commission), such a systematic ratification as proposed by the Law Commission of India will effectively complement the normative alignment in relation to the amendment of the Indian Constitution with a view to reviving simultaneous elections. The ratification mandate in this respect will provide an equal platform to states to consider the viability of such a proposal and empower them to set forth their own issues concerning the system, thereby facilitating a much-needed dialogue between the Centre and states regarding the nature of change in the electoral process prevalent in the Indian context.

VII. CONCLUSION

This Report has sought to objectively weigh the normative, empirical, legal, and administrative dimensions of implementing simultaneous elections in India. The evidence reviewed indicates that simultaneous elections have the potential to reduce electoral costs, increase voter turnout, and minimise policy paralysis by shortening the duration of MCC restrictions. At the same time, the report acknowledges the complexities inherent in realigning electoral cycles, addressing premature dissolutions, and safeguarding the federal structure and democratic diversity of the nation.

The discussion is intended to provide pragmatic pathways for operationalising simultaneous elections while incorporating safeguards to address legitimate concerns regarding representation, constitutional integrity, and administrative feasibility. Ultimately, the report underscores the importance of a balanced, evidence-based approach that neither uncritically endorses nor categorically rejects the proposition of simultaneous elections. Instead, it advocates for continued deliberation, robust stakeholder engagement, and incremental reforms that honour the constitutional spirit and democratic ethos of India.

²⁶⁷ Law Commission of India, *Draft Report: Simultaneous Elections*, 78, 122 (August 2018).

²⁶⁸ HLC Report, *supra* note 2, 315.

²⁶⁹ *Id.*

ANNEXURE – I

| S. No. | Topic | Case Name | Ratio |
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| 1. | <i>Discretion of the Governor</i> | <i>M.P. Special Police Establishment v. State of Madhya Pradesh, (2004) 8 SCC 788</i> | <p>The Governor is required to discharge certain functions in his “discretion” “by or under the Constitution”.</p> <p>This envisages that the Governor’s discretionary powers need not be express but may be necessarily implied.</p> <p>In the discharge of these functions, he is not required to seek the “aid and advice” of his Council of Ministers. Whether a function falls within his "discretion" or not, it is the Governor who decides the matter in his “discretion”. The Governor’s decision above is final. He is the sole and final judge whether any function is to be exercised in his discretion or on the advice of his Council of Ministers.</p> <p>The validity of anything done by the Governor is not to be called in question on the ground that “he ought or ought not to have acted in his discretion”.</p> <p>In all other matters, the Governor, like the President, act s on the advice of his Council of Ministers.</p> |
| 2. | | <i>Supru Jayakar Motilal C.R. Das v. Union of India, AIR 1999 Pat 221</i> | <p>The expression “by or under” the Constitution used in Article 163(1) has a wide import. The Constitution may not expressly provide that a particular function is to be exercised by the Governor in his discretion.</p> <p>Still, the tenor or the context of the provision may show that the function is one which the Governor is to exercise in his discretion. If any question arises whether a matter falls within the Governor’s discretion or not, the decision of the Governor in his discretion is final, and the validity of anything done by the Governor in his discretion cannot be called in question on the ground that he ought or ought not to have acted in his discretion.</p> |

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| 3. | <i>Advice of the Council of Ministers on Governor</i> | <i>Samsher Singh v. State of Punjab, 1974 AIR 2192</i> | While the Governor, like the President, usually acts on ministerial advice, the Governor is not bound to seek such advice in his discretionary area, and he discharges such functions to the best of his judgement. |
| 4. | <i>Power of the Governor to dissolve</i> | <i>M.P. Jain, Indian Constitutional Law,</i> ²⁷⁰ <i>Chapter VI</i> | <p>The Constitution is silent as to when, and in what circumstances, the Governor may dissolve the House. This matter is, therefore, to be regulated by conventions which might evolve in course of time.</p> <p>The following two propositions appear to be well settled in this regard:</p> <ol style="list-style-type: none"> (1) The Governor may not dissolve the House <i>suo motu</i>, without ministerial advice to that effect. (2) The Governor does not automatically accept the advice of his Council of Ministers to dissolve the House. The matter falls within the area of discretion of the Governor. |
| 5. | | <i>M.P. Jain, Indian Constitutional Law, Chapter VII C(c)</i> | <p>Another bone of contention has been the question of dissolving the House. As has already been discussed, some discretion has now come to be conceded to the Governor in this area.</p> <p>He is to take a decision to dissolve or not to dissolve the House on a consideration of the totality of circumstances.</p> <p>He may refuse to accept the advice of the Ministry which has lost the majority support if in his view an alternative stable government can be formed. The Governor may, however, be bound to accept the advice for dissolution by a Ministry having a majority support.</p> <p>The discretionary element in the matter of dissolution can be reduced if, as suggested earlier, a convention is adopted to grant dissolution to a defeated Chief Minister if he had</p> |

²⁷⁰ M.P. Jain, Indian Constitutional Law (9th ed., 2024).

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| | | | <p>a majority earlier.</p> <p>There is however great reluctance in the public to hold frequent elections as holding of an election in India is a very costly proposition. Therefore, dissolution of the Assembly ought to be resorted to only as a last resort. This enhances the discretion of the Governor instead of reducing it. This also encourages the cult of defection of members from one party to another.</p> |
| 6. | <i>Dissolution not accepted by the Courts</i> | <i>Jeetendra Deshpabhu v. The Governor of Goa, Raj Bhavan, Goa</i> | <p>The dissolution was set aside by a learned single judge holding that the Governor was not obliged to accept the advice of the Council of Ministers for the mere asking and should have made an enquiry whether an alternative viable Government could be formed, the reasons for the Council of Ministers seeking dissolution and whether it was really necessary to put a heavy burden on the State Exchequer by holding another election mid-way in the life of the Assembly.</p> |
| 7. | <i>Emergency Provisions</i> | <i>S.R Bommai v Union of India, (1994) 3 SCC 1</i> | <p>The court cannot question the advice tendered by the CoMs to the President but it can question the material behind the satisfaction of the President. Hence, Judicial Review will involve three questions only:</p> <ol style="list-style-type: none"> Is there any material behind the proclamation Is the material relevant. Was there any mala fide use of power. <p>If there is improper use of Article 356 then the court will provide remedy.</p> <p>Under Article 356(3) it is the limitation on the powers of the President. Hence, the president shall not take any irreversible action until the proclamation is approved by the Parliament i.e., he shall not dissolve the assembly.</p> <p>Article 356 is justified only when there is a breakdown of</p> |

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| | | | <p>constitutional machinery and not administrative machinery.</p> <p>The provisions in Article 356(3) are intended to be a check the powers of the President under Article 356(1).</p> <p>If the Proclamation is not approved within two months by the two Houses of Parliament, it automatically lapses. This means that the President ought not to take any irreversible action till the Proclamation is approved by the Houses of Parliament. Therefore, the State Assembly ought not to be dissolved. The dissolution of the Assembly prior to the approval of the Proclamation by the Parliament under Article 356(3) will be <i>per se</i> invalid. The State Legislative Assembly should be kept in suspended animation in the meantime. Once the Parliament has put its seal of approval on the Proclamation, the State Assembly can then be dissolved. The Assembly which was suspended will revive and get reactivated if the Proclamation is not approved by Parliament.</p> <p>Article 356 shall be used sparingly by the center, otherwise it is likely to destroy the constitutional structure between the center and the states. Even Dr. Ambedkar envisaged it to remain a 'dead letter' in the constitution.</p> |
| 8. | <i>Judicial Review and power of Governor under 361</i> | <i>Rameshwar Prasad (VI) v. Union of India, (2006) 2 SCC 1</i> | <p>Proclamation under Article 356 is open to judicial review, but to a very limited extent. Only when the power is exercised mala fide or is based on wholly extraneous or irrelevant grounds, the power of judicial review can be exercised. Principles of judicial review which are applicable when an administrative action is challenged, cannot be applied <i>stricto sensu</i>.</p> <p>In terms of Article 361 Governor enjoys complete immunity. Governor is not answerable to any Court for exercise and performance of powers and duties of his office or for any act done or purporting to be done by him</p> |

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| | | | in the exercise of those powers and duties. However, such immunity does not take away power of the Court to examine validity of the action including on the ground of mala fides. |
| 9. | <i>Miscellaneous</i> | <i>Sapru Jayakar Motilal C.R. Das v. Union of India, AIR 1999 Pat 221</i> | <p>After the revocation of the proclamation, the Governor invited the earlier Chief Minister Rabri Devi to form the government. The Governor, however, imposed a condition that the government must prove its majority on the floor of the House within ten days. This condition was challenged as unconstitutional.</p> <p>The Patna High Court however upheld the same saying that the Governor can impose such a condition in his discretion where there is doubt about the majority support enjoyed by the government in the House.</p> <p>The principle of collective responsibility means that the government must enjoy majority support in the House and how that majority support is to be ascertained is a matter left to the discretion of the Governor.</p> |